LAND USE MANAGEMENT AND DEMOCRATIC GOVERNANCE IN THE CITY OF JOHANNESBURG

CASE STUDY:

HILLBROW & BEREA

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1 INTRODUCTION

This study is in response to a proposal call from Planact and CUBES to examine land management and democratic governance issues in an inner city area of Johannesburg. The study focuses on the Hillbrow/Berea area, a high-density, predominantly residential area to the northeast of Johannesburg’s historic core. The area falls within Region F of the City of Johannesburg and previously fell into Region 8. (See Appendix 1-1: Hillbrow/Berea in the region)

1.1 Objectives of the study

This study seeks to identify the trends and issues in land management and democratic governance in the Hillbrow/Berea area with particular reference to the disjuncture between formal systems that regulate land management practices and informal processes that occur on the ground. The key issue areas scoped in the study are:

- Acquisition of land;
- Continued rights to the land;
- Regulation of the use and development of land; and
- Trading of land.

The objectives of the study are:

- To identify the trends operating in the area(s) in terms of the formal processes that govern the area and the de facto processes which include formal, informal and hybrid processes.
- To identify the stakeholders that impact upon and are impacted upon by the process of land management.
- To probe the perspectives/knowledge sets that govern these issue areas in the study area and to interrogate how different parties understand the questions of land management.
- To identify and interrogate the lines of contestation over land use, management and governance in the area.
- To interrogate the extent to which regulatory systems align with land management practices on the ground.
- To gain insight into the benefits and risks accruing to the key stakeholders (the City, property owners, tenants, subtenants and agencies) through the use of prevailing formal and informal processes.
- To identify innovations, systems and practices that showcase systems of land management that advance the goals of participatory democracy and increase access to land for the poor.
It is important to note that the bulk of this research was conducted during February, March and April 2007 just prior to the Inner City Summit organised by the City of Johannesburg in early May 2007. Since then, and largely as a result of processes associated with the Summit, a number of new plans and initiatives have been launched which will impact on the study area, most notably the establishment of the Mayor’s Inner City Team, and the proposed creation of the Charter Partnership Forum. This new administrative mechanism and associated institutional arrangements hold out great hope for more effective and concentrated land use management in the area. Similarly the announcement of a R100 million capital programme in Hillbrow/Berea and adjoining Yeoville has the potential to enhance investor confidence and improve residents’ living conditions.

The content of this report speaks to both the planning and physical issues that might inform the substantive work to be undertaken by the Mayor’s Inner City Team. The report also highlights some of the areas of need that may inform the physical upgrades, even though this was not the primary purpose of the report.

1.2 Study area

For the purposes of this report the study area has been defined as the area encompassed by Hospital Street/Clarendon Circle to the west, Empire Road/Louis Botha Avenue in the north, Joe Slovo Drive in the east and Saratoga Avenue/Smit Street in the south. (See Appendix 1-2: Study Area)

The study area has a number of unique characteristics. These include

- Its high-rise, predominantly residential, character;
- The superficially formal nature of the cadastre which accommodates both formal and informal processes;
- The increasing penetration of non-residential uses;
- The heterogeneous and increasingly cosmopolitan nature of the population;
- The particular vulnerabilities of occupancy groups such as temporary residents, migrants and “illegals” in the area;
- The various forms of tenure offered in the area, but particularly the various forms of rental tenure that predominate in the area;
- Homelessness;
- Crime and illicit activity;
- Overcrowding
- The mix of well- and poorly-managed buildings;
- Relatively low levels of social services in the neighbourhood; and
- The relative shortage of public space in the context of high-occupancy densities.
The radical juxtaposition of a superficially ordered, modernist physical environment with fluid, informal and superficially disordered social conditions has made the ability to manage land and ensure democratic governance in the area particularly challenging.

1.3 Methodology

The study utilises both a macro perspective and a micro perspective to gain an understanding of issues operating in the area. The macro perspective is informed by desktop analysis of existing material including books, research reports and maps; fieldwork in the area; new mappings; and interviews with key individuals or agencies with knowledge of land management practices or knowledge of the study area. (See Appendix A: People Interviewed)

The micro analysis was intended to focus on an examination of two buildings identified through the macro-analysis research process – a 'good building' and a 'bad building'. This was to be based on pictorial illustrations of the buildings and interviews with key stakeholders associated with the buildings. While it proved extraordinary easy to find the owners of 'good buildings' and interview both the owners of these buildings and their tenants, it proved impossible to trace the owners of bad buildings. Repeated attempts to contact a certain 'George', allegedly a Ghanaian with large property holdings in Hillbrow, did not yield any results. We were however able to interview some tenants in 'bad buildings'. One of these was a Congolese immigrant living in a hotel on Abel Road. He in turn was able to provide us with details of the property owner, but was terrified that any contact with the owner would compromise his identity and ability to continue staying in the building. Shisaka, the consultants charged with investigating five 'bad' Sectional Title buildings in Hillbrow in 2006¹, confronted similar problems when they tried to meet non-resident building owners. Our inability to track down the owners of 'bad' buildings points to a considerable land management challenge. We were therefore forced to rely on secondary sources to construct some narratives about so-called bad buildings: San Jose² in Olivia Street in Berea, and the five problematic Sectional Title buildings³ in Caroline Street in Hillbrow. The micro analysis therefore takes the form of a number of illustrated stories about a few residents and owners and attempts to draw out the land management and democratic governance issues from these narratives.

1.4 Structure of the document

¹ Shisaka (2006) Sectional Title Pilot Project for the City of Johannesburg
³ Shisaka (2006) Sectional Title Pilot Project for the City of Johannesburg
This written document should be read in conjunction with an illustrated album that provides supportive maps, drawings and photographs.

The written document is divided into three sections:

• This introductory section, which gives the background to the study (Chapter 1) and the contextual framework (Chapter 2).
• Section Two, which explores the contextual conditions in the area. Chapter 3 looks at the historical evolution of the area. Chapter 4 highlights the key physical, socio-economic and institutional conditions in the area to provide some background for later discussions of land management issues.
• Section Three, which examines how the land management process has played out in the area. Chapter 5 describes various ways to acquire property in the area. Chapter 6 focuses on the legislation that guarantee continued rights to the area and on the process of eviction. Chapter 7 examines land the how the relationships between various actors in the area impact on land management.

1.5 Acknowledgements

This study has emerged out of an intense interview process. We would therefore like to thank all the interview respondents who shared their valuable insights with us and gave so generously of their time. The people who were interviewed are listed in Appendix A. We would also like to thank Ntshadi Moeketsi who assisted with the translation and transcribing of the interviews and Vaughn Horsman who assisted with the mapping.
There are no clear definitions of the concept of land management that might be appropriate here or now. Modernist interpretations of the concept tend to stress the contribution that good land management can make to ordering and regulating the city, to creating what Gotz and Simone call “a sense of coherence”. According to Gotz and Simone, “Municipal administrations are entrusted with ensuring order, equity, and conditions for productive endeavour. They discharge this responsibility by providing some sense of coherence over who does what where. But exactly what ‘sense of coherence’ is needed for those who inhabit the city? How precisely is this 'coherence' structured?” (Gotz and Simone 2003) Which actors contribute to this sense of coherence, and which actors undermine this sense of coherence? Who defines coherence?

2.1 The modernist state

In the past, coherence was based on clarity, certainty and orderliness and the assumption that a powerful State could ensure these outcomes. According to this vision, the State, or the municipality, devised particular tools to manage cities. These tools “have been directed at tying identified actors to preferable behaviours in approved territories” (Gotz and Simone 2003). Municipalities were expected to govern in the interests of their 'citizens' and to regulate space in ways that would raise revenue for the municipality, which in turn would be spent on meeting these citizens' needs.

This conception of the State ascribes specific roles to specific urban actors in specific places. These roles are then governed by a well-capacitated and legitimate municipality using a set of regulations that are applied in space represented by maps and diagrams such as cadastres and zoning plans.

2.2 Post-modern conditions

But what happens when the municipality is weak? What happens when the municipality’s desire to raise revenue conflicts with the needs of these citizens? What happens in situations when citizens' needs are met precisely because these regulatory systems have collapsed? What happens when the land values that generate taxes decline? What happens when the municipality is unable to access the rates and taxes that such regulatory systems might generate?

Gotz and Simone argue that modern statecraft, based on assumptions of social and spatial fixity might be thoroughly inappropriate in the face of highly fluid urban conditions that characterise African cities. “Historically, African urban actors have revelled in the interstices of stability and instability, individuation and forms of social solidarity, rural and urban, colonial spaces of domination and spaces of relative
autonomy, the material and the spiritual, home and nonhome.” (Gotz and Simone 2003) Rather than focus on developing particular places ‘African urban actors’ construct “multiple spaces of operation”.

What then is government’s role in the context of rapid flux, constrained capacity and unknown actors – in a context where there are few fixes? Equally significantly, what are the roles of other, non-state, urban actors4?

The overview report preceding this study on Land Management and Democratic Governance in Five South African Cities (Parnell et al 2007) suggests that the regulatory framework plays a significant role in urban land management. This regulatory framework is a combination of tools inherited from the pre-1994 government as well as more progressive post-1994 legislation. The result of this amalgam is that “there are aspects of the regulatory framework that are inimical to the objectives of the democratic state” (Berrisford 2006 quoted in Parnell et al 2007) which may impede access to the city, exclude the poor and compromise the government’s stated commitment to democratic governance.

The overview report also points to the fact that incoherent regulatory systems create gaps in which the “private sector is frequently able to develop land without any regard for the needs of the general public.” (Development Planning Commission quoted in Parnell et al 2007). While this hints at a landscape in which large, commercial developers run rampant, what about other, less powerful private actors, such as small-scale slumlords, street traders and the like? It is important to note, particularly in the context of Hillbrow/Berea, that it is precisely this incoherence that also opened up new spaces of opportunity. These have been avidly seized by the urban poor. This process has, in some ways, made South African cities more equitable places, allowing the poor to access very desirable places. This is particularly evident in the inner city, the site of good transportation links, large markets, and a wide range of social amenities. It is the poor themselves in Hillbrow/Berea, rather than the State, who have been able to actualise the RDP vision for urban reconstruction, albeit through quasi-legal means: “land for housing must be suitably located geologically, environmentally and with respect to economic opportunities and social amenities.” (RDP 1994)

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4 This study uses the terminology ‘urban actor’ to describe the various players that influence a place, rather than the more conventional term ‘stakeholder’ or ‘citizen’. The term “urban actor”, used by Gotz and Simone (2003), captures the sense of fluidity of a place like Hillbrow/Berea which is subject to the influences of a wide range of individuals many of whom may not necessarily have a permanent stake in the area. The term also captures the concept of human agency, illuminating the fact that a wide range of human actions will have varying effects on the area. This suggests that researchers should look beyond the Municipality as the primary orchestrator of urban action. This approach diverges from the approach adopted in the Overview Report (Parnell et al 2007) which focuses primarily on the State as central to the process of land management.
2.3 New opportunities

By occupying space – sometimes illegally, informally or in other unregulated ways – the urban poor have succeeded in gaining a foothold in places that would otherwise be denied them. It is precisely in the space created by the absence of enforcement, institutional flux and ambivalence of the council regarding its responsibilities to the poor\(^5\), that the poor have managed to access the city. The problem that flows from this situation relates to the living conditions that have resulted from this situation, the unstable relationships that have emerged between the actors involved in orchestrating these living conditions, and the gradual erosion of irreplaceable building stock.

Inadequate living conditions and unstable relationships are as much a problem for the urban poor as the municipality that seeks to fulfil their needs. While inadequate living conditions and unstable relationships might not immediately disadvantage the urban poor, these “could result, over time, in the deterioration of the urban stage on which they themselves are reliant for their livelihoods…” (SACN 2006). In addition it should also be noted that, “many participants in the informal sector are often super-exploited because they fall outside of the ambit of... legislation and cannot access the legal system. Lack of access to proper health and education services, alienation from the often highly conspicuous wealth in cities, fear of eviction and a tendency to resolve disputes by violence due to lack of access to legal and policing services, undermines the quality of life of residents in the informal sector and perpetuates the cycle of poverty. (SACN 2006)

2.4 Diverse managers and styles of management

While the regulatory framework is undoubtedly a very important aspect of urban management, it is only one of the tools at the disposal of one of the urban actors – albeit a particularly important one, i.e. the State. But this tool may in fact be somewhat ineffective in that:

- It is most often framed in negative terms, where regulations prescribe what is not permissible and what cannot be done.
- It is wielded by an institution with serious capacity constraints, both in terms of human resources and funding (Parnell et al 2007)
- It is regularly dismissed by other urban actors who have developed considerable skill at acting outside of regulatory frameworks.

The State can also act in a variety of positive ways by:

- Devising progressive policies;

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\(^5\) See Section 4.3
• Seeding development through investment of its own resources;
• Contributing public infrastructure and services, and then maintaining these to an acceptable standard; and
• Providing incentives to other actors so that they can perform what the State deems to be socially/economically desirable actions.

It is important to note that the State is only one actor within the complex urban space of the inner city. Residents, traders, property owners, slumlords, drug-dealers, shoppers, tenants and sub-tenants also engage in the process of urban management, in both the public and private realms and in the blurred and overlapping spaces between these realms. In some instances the interactions are harmonious, in others combative and conflicting.

It is this complex lattice of relationships between a range of urban actors that forms the basis of the conceptual framework underlying this study. Rather than succumb to problematic dualities of formal versus informal (Royston, Rakodi), legal versus illegal (Durant Leserve), the study focuses a spectrum of relationships. It examines the various ways in “which formal legal and administrative systems recognise and work with or resist informal practices.” This study adopts as its starting point Rakodi and Leduka’s position that, “in urban areas, the social institutions that regulate transactions in land and relations between the actors involved are hybrids of formal and informal rules.” (Rakodi and Leduka 2005)
3 HISTORICAL CONTEXT

The historical evolution of Hillbrow/Berea created a very specific built environment, which, over the years, has been subject to a series of radical changes. Only by understanding the history of the area is it possible to understand current conditions, and possible future trajectories.

3.1 Early days

Hillbrow and Berea were established in the 1890s as predominantly residential neighbourhoods, and consisted mainly of detached houses for middle class workers (Morris 1999, Schmidt 2004). At the time, Hillbrow was portrayed as “the healthiest and most fashionable portion of Johannesburg, within two minutes of the Hospital Hill tram” (Clay 1982 quoted in Schmidt 2004). Hence, right from the very beginning Hillbrow/Berea's proximity to transport links and its proximity to the job opportunities of the historic core have accounted for its attractiveness. At the same time a sense of impermanence has also been a historic characteristic of the area: Hillbrow was seen as a place to make the transition from the city to the country, “a transit camp to suburbia” (Clay 1984 quoted in Schmidt 2004)

By the late Twenties Hillbrow’s position between the city centre and the northern suburbs made it particularly attractive to property speculators (Schmidt 2004). Soon low-rise detached houses were being pulled down to make way for three- and four-storey flat blocks intended for rental tenure. (See Appendix 3-1)

3.2 The manufacturing boom gives birth to the modernist city

In the period of the post-WWII industrial boom, the physical fabric of the suburbs was radically altered, making way for the high-rise, high-density flatland that we know today. The 1947 removal of height restrictions [in Hillbrow] prompted a building boom. The suburb “became a speculator’s market, where construction companies flourished, prompted by developers who realised that it was now a prime site for shops, offices, high-rise flats.” (Schmidt 2004)

Hillbrow became a testing ground for the new modernist housing propagated by international architects like Le Corbusier, Oscar Niemeyer and Auguste Perret (and their local acolytes). More and more detached houses were demolished to make way for what were now eight- to ten-storey high flat blocks. (See Appendices 3-2 and 3-3)

This modernist architecture resonated powerfully with social and economic conditions of the time. The manufacturing boom provided full employment for the skilled white workers who inhabited the area, allowing them to pay market-related rentals for their well-serviced apartments. This, in turn, spurred further high-rise
construction. These white artisans, many of whom were imported from Europe, were accustomed to high-density urban living and the reciprocal rights and responsibilities associated with it. They also contributed a cosmopolitan flair to the area supporting a 'café-society culture' of coffee bars, clubs and late-night book stores making Hillbrow an entertainment magnet for the rest of white suburbia.

Berea, in contrast, experienced much of its development in the 1960s and 1970s. It retained a more residential character with fewer shops and entertainment venues, but with more parks, religious buildings and schools.

Land management practices at the time reflected these modernist practices. The new town planning scheme and building by-laws established rules. These rules, in turn, determined the nature of development. Where infringements occurred, by-laws were rigorously enforced by a well-endowed and well-capacitated municipality, concerned only with the white city. These formal relations between property owners and the municipality were echoed in the relationships between tenants and landlords in the form of detailed lease agreements. Relationships between the council and tenants revolved around service contracts between individual tenants and the municipality for ‘lights and water’. Significantly, up until the 1970s, the Group Areas Act ensured that all tenants were white.

The rampant building boom of the 1950s and 1960s slowed down as the effect of rent control legislation took effect, making further flat-block development progressively less attractive to speculative developers. Both Hillbrow and Berea saw the last of new flat block construction in the early 1970s, and over the next decade the area remained relatively stable with the essential physical fabric having been put in place: Hillbrow and Berea functioned as high-density, primarily residential neighbourhoods characterised by large amounts of rental stock accommodating a white largely middle-class population. (See Appendices 3-4, 3-5, 3-6 and 3-7)

3.3 The greying of Hillbrow and Berea

The late 1970s, however, heralded another radical change for this part of the city. Once again a number of forces combined to change the face of the neighbourhood.

In the late 1970s, white flight from the area – facilitated inter alia by the departure of European residents after 1976, an increased duration of military conscription of white males, and a tendency for young white South Africans to stay at home for longer – led to high vacancy levels. This was coupled with a severe housing shortage experienced in coloured, Indian and black areas. Push factors for white tenants and pull factors for blacks led to a rapid change in the demographics of the neighbourhood with increasing numbers of black tenants moving into the area in
defiance of the prohibitions of the Group Areas Act. At first coloureds and Indians
moved into the area, but in the 1980s they were followed by blacks, keen to leave
township life. At the same time, the Apartheid government began to experience
some doubts about the efficacy of the Group Areas Act, with the result that racially
based evictions were not pursued systematically (Morris 1999). Landlords, happy to
fill their vacant spaces, facilitated what became known as the ‘greying’ of Hillbrow.

'Greying' went hand-in-hand with a number of processes. These included:

- Capital flight as property owners sought safer investments in the emerging
decentralised nodes;
- Massive hikes in rents because unscrupulous landlords could exploit the
vulnerable status of illegal black tenants;
- This made rents unaffordable, which in turn led to subletting – and
sometimes overcrowding;
- Which, in turn, led to excessive strain on the building services.

3.4 Inner city decline

'Greying' was accompanied by the deterioration of buildings: a natural process of
ageing if the physical fabric is not vigorously maintained, but also due to neglect by
landlords who felt uncertain about the value of their investments in the context of
radical change. The illegal status of the new tenants, who may have chosen not to
complain about deteriorating conditions for fear of eviction, was also likely a factor.

Attempts by the State to evict black tenants were ultimately challenged by relatively
well-organised residents committees including Actstop (the Action Committee to
Stop Evictions), which functioned on a block-by-block basis, and was assisted by
committed lawyers. (See Appendix 3-8)

The absence of land management created a number of gaps and well as a number
of new opportunities. Township residents, historically excluded from the benefits of
urban life, seized the opportunities to rent space in the relatively well serviced inner-
city with its transport links, proximity to work opportunities, access to social
amenities and relative freedoms from social sanctions.

While the absence of land management, illegality and informality opened a window
for benign urban practices (like providing accommodation for the urban poor) it also
created the space in which many dangerous urban practices could occur. Hillbrow/Berea were soon associated – in the minds of both residents and the
authorities – with drug trafficking, prostitution, murder, theft and general
lawlessness.
Crime impacted seriously on the quality of residents’ lives (Morris 1999). See Appendix 3-10). Many residents, in particular the elderly, were fearful. The situation was particularly bad for tenants living in apartment blocks with poor security. They felt unsafe both in and outside their blocks. The constant residential flux and the lack of homogeneity also worked against the formation of close social ties. Many people were isolated and distrusting of their fellow residents (Morris 1999). A common response was for residents to spend their leisure time with people from their home towns and to socialise within their flats, undermining the role of Hillbrow as a vibrant local and regional entertainment centre.

Similar changes impacted on the retail environment. Large formal enterprises moved out of the neighbourhood to be replaced by smaller shops and street traders providing an increasingly limited number of services to an exclusively local population (Pernegger).

By the late 1990s, a new wave of immigrants – this time drawn from other African countries – arrived in Hillbrow, provoking a less than warm welcome from local South African residents. Morris records the words of Phillipe, a Congolese resident: “At first when you meet a South African black man, after the greeting we start talking the first question they will ask you is, ‘Where are you from?’ The second one, ‘Why did you come here?’ the third one, ‘When are you going back to your place?’... They’re stupid, insulting questions.” (Morris 1999)

Increasing heterogeneity of the population and ongoing flux undermined whatever sense of community Actstop had engendered in the 1980s. At the same time, effective State withdrawal from the area, and the capitulation of landlords in the face of overwhelming forces, meant that the impetus for tenant organisation had collapsed. Some tenants tried to take over the management of their buildings in the heady days that followed the democratic elections but these experiments ultimately failed. As Morris points out: “Although they had the resources to undermine the landlord’s authority, they generally did not have the material or organisational resources to take over the everyday running of blocks.” (Morris 1999)

It was this situation that the new post-Apartheid municipal government inherited in 1995 and which informs the current physical, social, institutional and planning contexts in the Hillbrow/Berea area. (See Appendices 3-11, 3-12, 3-13)
4 SITUATION REPORT & ASSOCIATED LAND MANAGEMENT AND DEMOCRATIC GOVERNANCE ISSUES

This chapter examines the land management implications that flow from the unique physical, socio-economic, and institutional conditions in Hillbrow/Berea. The chapter starts with an analysis of the physical conditions in the study area, because it is the unique built fabric of the area that has created the platform for a variety of social interactions, and forms the basis for a set of unique land management and governance issues. The chapter then explores the socio-economic conditions in the area, focusing on changing demographics – race, nationality, ethnicity, and migrancy; affordability; household composition; and crime. The chapter finally examines the institutional dynamics within the Municipality, amongst property owners and amongst residents that have impacted on the area. The chapter continuously highlights the land use implications of the physical fabric, socio-economic conditions and institutional conditions for the various urban actors in the area, particularly the urban poor.

4.1 Physical conditions

Since the 1890s the formal cadastre has influenced land management in Hillbrow/Berea, setting out identifiable pockets of land intended for private development and a connecting system of streets, lanes and parks that would be managed by the municipality. Subsequently in 1947, 1969 and 1975 a number of town planning schemes were promulgated which also governed physical development in the area. These, together with various sets of building regulations, have contributed to the building bulk and physical form of the area, which have remained largely unchanged since the late 1970s because so little new investment has flowed into the area since then. (See Appendix 4-1: Cadastre)

To this day both the cadastral plan and the town-planning scheme of 1975 continue to form the basis for land management in Hillbrow/Berea. However since the 1990s there has been significant blurring of the boundaries between private and public space and the radical re-occupation of space within existing buildings – which will be discussed in detail throughout the report.

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6 Up until the 1970s there would have been the Johannesburg Building regulations, which were replaced by the National Building Regulations in the 1980s. Until the 1980s building standards in 'white areas' were rigorously enforced by Building Control officials in the municipality as a precondition for the approval of plans, and during the course of construction. Today a more permissive regime prevails in the context of the new SABS 0400 regulations. This requires only that the property owner signs an assurance that the building accords with SABS 0400. The actual implementation of building standards is left to the builder. The work of the builder is rarely checked by over-worked and under-capacitated building control officials, with a concomitant decline in the standard of construction. While this has undoubtedly helped to lower the cost of construction in the short-term, making housing more affordable, the long-term consequences of such reduced standards are likely to be problematic, particularly in the context of rental stock which needs to be particularly robust in the face of ongoing tenant turnover.
The following section highlights a number of key physical issues – and the associated land management and democratic governance issues that characterise the study area.

4.1.1 Urban fabric and associated land management issues

The gridiron pattern in both Berea and Hillbrow and the intensity of development contribute to the distinct character of the area. However, development in Hillbrow/Berea is by no means uniform and there are stark differences between the two townships. (See Appendix 4-2)

In the first instance, Berea tends to be more residential. Its overall density is lower than that of Hillbrow because there are distinct pockets of Berea still dominated by the original detached dwellings built prior to the 1930s. The township accommodates a wide variety of building typologies: large blocks of high-rise flats up to 20 storeys high, smaller flat blocks accommodating anything between four to 20 flats and some remaining detached houses, generally occupied by multiple households both within the main dwelling and in a variety of back-yard rooms.

Some buildings in Berea are set back from the street edge, giving the area a somewhat looser grain, and providing spaces for various activities to take place in the interstitial space between the building and street edge. On quieter, predominantly residential streets in the northern part of the township, the space between the building and the pavement has been conceptualised as a garden space, with varying levels of attention to landscaping and maintenance. In other instances the space has been paved and fenced, creating an impenetrable buffer between the building and the street. But on the busier, more commercial roads this interstitial space has been occupied by retail activity, comprising either less-permanent street traders setting up tables each day or by more permanent structures such as containers or custom-built shops.

The relatively loose grain of Berea is also a consequence of the 'disappearance'/demolition of some detached houses. The resulting vacant plots are now utilised as parking lots, dumping grounds or sites for car-wash businesses.

Decline in Berea is generally concentrated to the south of the neighbourhood. This distinct concentration of decay has tended to focus new investment in the north of the township.

Hillbrow on the other hand accommodates a wider mix of uses and tends to be denser given the disappearance of all the original detached housed in the area. It is difficult to discern any distinct pattern of decline in the area. Decaying and dilapidated buildings tend to be evenly distributed throughout Hillbrow. While this
would seem to make it more difficult for developers to concentrate their efforts, there is evidence that a large property investor has acquired a significant number of properties in the southern part of Hillbrow (Presentation by Barry Senior at the Inner City Summit, May 2007). (See Appendix 4-10)

In Hillbrow all buildings have been built right up to the street edge giving the township a far tighter, more urban character. (See Appendix 4-3) The absence of interstitial spaces has meant that all informal retail activity takes place on the very narrow and already congested pavements or at the ends of the service lanes (see Appendices 4-4, 4-5). Most buildings are taller than five storeys, which suggest the needs for lifts. Lifts are often the first services to break down in the face of inadequate maintenance, making it difficult – if not impossible – for the elderly or the disabled to continue living in these buildings. A disabled man, Maibo Dibokwane, now living in the Metropolitan in Alexandra Street in Berea, who we interviewed for the purpose of this study, cited the six storey climb as one of the reasons he left his original accommodation in a badly maintained Hillbrow block to move into a better maintained building in Berea which has working lifts. He was lucky that his income allowed him to make the move.

The size of buildings is a significant factor in land management. In bigger buildings, there are economies of scale for property owners or managers. The high costs of security, maintenance of the communal spaces, upkeep of services and salaries of caretakers, cleaners etc. can be spread among a large number of tenants. This is much more difficult in smaller buildings. It is therefore not surprising that it is the extra-large buildings with about 200 flats (e.g. Helderberg, Metropolitan), large buildings with about 100 flats (La Rosa) and medium buildings of 80 flats (Rondebosch) that have attracted the interest of the 'big players' like Trafalgar, Ithemba, Connaught, Jozi and the Johannesburg Housing Company. By contrast, TUHF, a housing financier with a large portfolio in Hillbrow/Berea is involved with significantly smaller buildings. This is not surprising given that TUHF assists emerging property developers with bridging finance. These developers are more likely to look at entry-level stock, where some limited economies of scale can be achieved (20 flats). Taffy Adler of the Johannesburg Housing Company confirms: “We have one building at 25 units and we are just breaking even.” (See Appendices 4-6, 4-7, 4-8)

It would appear that buildings with fewer than 20 flats have not been able to able to attract the attention of new investors. These tend to be in a serious state of decline, and manifest signs of severe overcrowding. We are aware of one group of small buildings used as a brothel (interview with Prince Ndevhu) (See Appendix 4-9). On the other hand, it is in these small buildings that the poor are most likely to find a foothold. A shack at the back of a detached house at 5 Joel Road in Berea for example is home to Wandile Zungu (or Wonder), a typical impoverished, inner city
residents currently facing eviction, whose story forms the central narrative of the COHRE report. (COHRE 2005)

The size of the units has also affected land management. Flats range from 30 sq metres for a bachelor flat in La Rosa to 160 sq metres in Strath Bogie (Shisaka 2006). Older buildings generally have larger flats in accordance with fashionable space-standards of the time and their original middle class clientele. The STTP reports an average size for flats of 133 square metres – extraordinarily large for the low-income market where “the average RDP house is 30m2 and bonded, 'affordable' houses are classified between 40-80m2.” (Shisaka 2006). The large amount of space, combined with low affordability levels of the current tenants, effectively invites sub-tenancy and allows residents to occupy flats on a one-room-per-family basis. This inevitably increases density. It should be noted however, that even in the five sectional title buildings studied in the STTP report where there were high levels of sub-tenancy, densities were such that each person occupied about 15 m2. This is generous by world standards (Shisaka 2006) and falls within the building bylaws, which allocate a minimum of 6m2 per person. Municipal officials have therefore not been able to use overcrowding as a reason to condemn buildings and have had to seek out other bylaw infringements, such as health and safety. (See Appendix 4-10)

4.1.2 Density

The Hillbrow/Berea area is probably the densest area in the city of Johannesburg. According to Setplan Dludla Development, “Hillbrow-Berea is one of the highest density urban areas internationally, with 135 000 people living in just under 2 km2 (67 500 people per square kilometre). To put this density in perspective, Hong Kong, reputed to have one of the highest densities in the world with 6,4 million people, only has in the most dense areas (Hong Kong Island and Kowloon), 25 000 people per square kilometre. This is less than half of the density of Hillbrow and Berea (www.hongkongnet.net 25 June 2004). In New York City, there is a density of 10 000 people per square kilometre, which is five times lower than the density in Hillbrow and Berea (www.nyc.gov and www.lonelyplanet.com).

This is the result of high building densities, high occupancy densities and the relative lack of open space. (See Appendix 4-12) According to a study on residential density, Hillbrow accommodated 700 persons/ha or 135 units/ha (nett) in about 1984 (Senior, 1984). These figures are likely to have increased significantly given current patterns of accommodation with one household inhabiting each room rather than one household inhabiting a flat, which would have been the case in the early 1980s. (See Appendix 4-11: Density And Height Zones)

High densities are not inevitably problematic. On the contrary, they have the potential to offer both the residents of high-density neighbourhoods and the
Municipality a number of significant advantages. They offer residential thresholds that are high enough to support an active retail sector, well-located social amenities, a viable public transport system and the efficient provision of urban infrastructure. They also involve considerable savings on land, an increasingly scarce resource.

On the other hand, badly managed high-density environments facilitate the rapid spread of disease and fire. Also, the negative externalities of badly managed high-density buildings soon spread to other buildings in high-density urban environments. For example, the malfunctioning sewerage system of a single building is likely to overflow into the street and then into adjoining buildings. The problems of one bad building soon become problems for the neighbourhood as a whole. A common complaint in Hillbrow/Berea relates to the effect that bad buildings have on adjoining buildings or the surrounding neighbourhood. Maureen Singh, the vocal caretaker of well-managed building in Hillbrow\(^7\), describes the effect of the badly-managed building\(^8\) next door: “The biggest eyesore, totally overcrowded, with blocked drains which flood into my garage.” (Silverman and le Roux 2004)

Well-functioning high-rise environments are heavily reliant on sophisticated infrastructural systems, which in turn require stable, highly formalised systems of building management and uninterrupted supply of municipal services. These systems include:

- Lifts (dependent on electricity);
- Waterborne sewerage (dependent on constant water-supply);
- Sewerage pumps, if the level of the lowest sewerage point is below the level of the municipal sewer (dependant on both water and electricity supply); and
- Rain-water and ground-water pumps, if the lowest level of the building is lower than natural ground level (dependent on electricity supply).
- Some Hillbrow/Berea buildings also rely on communal coal-fired or electrical geysers (dependent on staff to man the geysers in the former and electricity supply in the latter).

In many instances these sophisticated infrastructural systems broke down as a consequence of age or lack of maintenance – because associated management systems that would have maintained these systems had also collapsed. This exacerbated the spiral of decline as the deterioration of private property soon spread into the public realm. The collapse of infrastructural services within buildings also provided tenants with good reason not to pay. Finally, severance of services by the municipality rendered lifts, pumps and water-borne sewerage systems

\(^7\) Everest, corner of Goldreich and Edith Cavell Streets
\(^8\) Monaco
inoperable and contributed to further urban decay. Paul Jackson of TUHF, a housing finance company active in Hillbrow and Berea reiterates the point: “Slumlords earn an enormous amount of money by externalising their costs. The public is bearing those costs. Good honest tenants are bearing costs. Municipalities are bearing those costs. This results in a lack of investment – not only in rands and cents. There are also social costs.”

This suggests that for areas like Hillbrow/Berea to function effectively, intense management by both private individuals (owners and tenants) and by the public is required. (See Appendix 4-13) Geoff Mendelowitz, former head of the Council’s Better Buildings Programme articulates the need for both private and public maintenance: “It’s fine if you fix the building – but that’s only a quarter of the problem. It’s the taxi who drops its oil all over the pavement, it’s the hawkers. It’s the urban landscape. It needs some good urban design. The old urban design has created some funny spaces – the alleyways, in particular, are a problem.”

Such management of the public environment does not come cheaply. This is likely to compel the Municipality to seek the kind of development that will contribute to high levels of rates and taxes. This would tend to favour the gentrification of the area and the consequent displacement of the poor.

In a similar vein property owners will need to recover the high cost of building management from their tenants. Property owners here have two options – they can either seek out middle class households who can pay the rent for individual flats and the high costs of good building maintenance, or choose to rent on a room-by-room basis to significantly poorer tenants. In some buildings extremely poor tenants then opt to sublet bed space within their rooms in order to pay the rent. Property owners in Hillbrow/Berea have pursued all of these options resulting in considerable changes in density.

The changing densities of Hillbrow/Berea present particular challenges for tenants, building owners/managers and the public sector.

Historically the building stock in Hillbrow/Berea would have been designed on the basis of one household per flat with both rooms and services configured on this basis. Since then densities have increased significantly – either with or without the owners’ consent. There is anecdotal evidence of flats accommodating up to 15 people (Singh in Silverman and le Roux 2004), more reliable evidence of flats accommodating up to 11 people (Shisaka 2006) and evidence from the fieldwork conducted for the purposes of this study of four people sharing a single room. (See

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9 The COHRE report (2005) points to the irony of the municipality evicting tenants on the grounds of compromised health and safety when the municipality itself bore some responsibility for this situation because of cutting off services
Appendix 4-14) These densities – which are perfectly legal in terms of the by-laws – have generally emerged in the context of bad management or lack of management.

### HILLBROW RESIDENTIAL DENSITIES: SUMMARY

<table>
<thead>
<tr>
<th></th>
<th>1983</th>
<th>2001</th>
<th>2006 realistic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Residential Density (ppa)</td>
<td>700</td>
<td>1000</td>
<td>1812</td>
</tr>
<tr>
<td>Floor Space Rate (m²/person)</td>
<td>56.7</td>
<td>36.9</td>
<td>21.9</td>
</tr>
<tr>
<td>Building Density (FAR)</td>
<td>4.0</td>
<td>4.0</td>
<td>4.0</td>
</tr>
<tr>
<td>Total Population</td>
<td>34 500</td>
<td>49 600</td>
<td>89 500</td>
</tr>
</tbody>
</table>

(GAPP and SHISAKA 2006)

But there is also evidence that the managers/owners of tightly managed buildings are allowing flats to be occupied at twice the design density, in order to make the flats more affordable (Interviews with Miller, Shaeffer, Barnes). The general practice established by POMA is:

- 2 people in a bachelor unit,
- 3 people in a one-bed roomed unit,
- 4 people in a two-bed roomed unit.

This suggests that rooms originally designed as lounge/dining rooms effectively function as bedrooms. In the less tightly managed buildings higher densities can be achieved by squeezing more people in or by enclosing balconies, which seriously reduces the natural ventilation. Where single spaces are shared by two people – who often don’t know each other – tenants who can afford to do so use furniture, curtaining or boarding to separate the spaces. Tenants who cannot afford to differentiate their private spaces are forced to occupy a single space. This has serious consequences for personal privacy and is likely to impact on the social dynamics within the space.

Some building owners/managers have devised creative techniques for addressing the overload on infrastructural systems that occur when design densities are exceeded. Andrew Shaeffer of Trafalgar Property Management explains the challenges. “Take Helderberg in 5 Joel Street… The central boiler in the basement was once adequate, but with 1500 people now living in the building they don’t have enough hot water for the current occupancy density. Then the tenants complain. Then we have difficulties collecting the rent. We asked ourselves ‘Should we put in individual geysers?’ We decided that the bottom half of building would continue to be serviced by the communal geyser. The flats in the top half of the building have new electrical geysers in each of the flats.”
Significant increases in residential density also impacts on public facilities. It means more people in the area and the consequent need for more services, public open space and social amenities. In the absence of increased rates from the area (due to declining land values that arise from overcrowding) the Municipality may be reluctant to commit the additional resources that are needed in the area. Provincial departments, responsible for schooling for example, might also not be able respond to radical increases in the population. The shortage of social amenities might also compel residents to seek social services outside their immediate neighbourhood. Gotz and Simone (2003) cite the fact that many inner city residents send their children to schools in Soweto. Similarly, the majority of residents we interviewed attended church, socialised or shopped outside the area. The social consequences that flow from the physical absence of social amenities in the area include a failure to build community and ties to the area.

4.1.3 Land use

The City of Johannesburg's zoning map for Hillbrow/Berea provides some indication of land use patterns in the area. But it also highlights the extent to which land use patterns ‘on the ground’ are not reflected in a zoning diagram that relies on a cadastre assuming fixed boundaries between public and private space. (See Appendix 4-15: Use Zones)

The zoning diagram continues to indicate where major land uses are located:

- The study area is indeed predominantly residential.
- There is indeed a high concentration of relatively formal retail activity along Pretoria and Kotze Streets in Hillbrow and more sporadic relatively formal retail activity along Abel Road in Berea.
- The few significant open spaces in the area – Mitchell Park, Alec Gorshel Park, De Villiers Park, Donald Mackay Park and Pullinger Kop are also reflected on the zoning.
- The scattering of religious/community buildings throughout the area generally still exist.

What the zoning diagram does not illustrate are the significant land use changes that have taken place on the street and that have taken place within buildings. Street traders for example can be found on the pavements, on the edges of roads in both Hillbrow and Berea and in the lanes in Hillbrow. Their ability to trade in the public space is theoretically regulated by a new set of by-laws promulgated by the post-Apartheid municipality\(^{10}\), but in reality is a consequence of the adjoining owner’s attitude to the business. Property owners organised under the umbrella of POMA (the Property Owners and Managers Association) tend to discourage street

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\(^{10}\) In 1997 the municipality passed new street-trading by-laws.
traders from setting up shop outside their buildings but other landlords tend to take a more permissive view. (J Adler)

The highest concentration of street traders is to be found in close proximity to the more formal retail establishments along Kotze, Pretoria and Abel Roads, the major public transport routes through the area. Street traders selling fruit and vegetables are concentrated along Abel, partially in response to the shortage of formal supermarkets in Berea. Street traders offering services such as hairdressing, tailoring and shoe repair (rather than goods) are concentrated along Tudhope Road. Some street traders offer both goods and services, such as sweets, tailoring and telephones. (See Appendices 4-16, 4-17, 4-18, 4-19, 4-20)

In the 1990s some efforts were made to organise street traders into a market on Quartz Street between Pretoria and Van der Merwe Streets, but this did not meet with much success. It is likely that traders resisted the market for a number of reasons:

- Traders objected to paying rent when they could trade in the street for free.
- The market, which is orientated north-south, runs contrary to the large pedestrian flows through the area which run east-west.

The large number of street traders in the area present a number of land management challenges:

- Street traders congest pedestrian movement routes;
- Street traders pay no rent, making it difficult for the City to extract rates and taxes;
- Street traders may compete with formal retail operators and therefore compromise the activities of these formal enterprises which are more likely to contribute to the municipal tax base; and
- Street traders generate large amounts of solid waste, which they dispose in the street in the absence of bins. This increases the amount of litter that needs to be collected yet street traders do not pay the costs of this additional service.

One property owner finds little value in informal trade. He maintains that street trading “creates grime, then crime”. He says people have to walk in the street because pavements are overflowing with traders or the grime generated by trading. “We want the council to create markets that are managed, with toilets and other facilities, and are kept clean. We want to bring business back into the city. Most illegal traders are also illegal citizens. The council has got it wrong by putting little shelters up in the inner city. At the time I said they wouldn’t work. The council broke its own bylaws. In those areas formal retail landlords are paying rent – but you can’t get into the shop because of the hawkers on the street”.

27
This particular landlord does not tolerate informal trading in the vicinity of his residential buildings. In the Legae Lerona Residential Improvement District (RID), the guards employed by the RID are instructed to chase informal traders away. A property owner in the district says: “We are enforcing the by-laws. They are infringing the by-laws”.

On the other hand street traders provide a valued retail amenity to local residents, selling relatively cheap goods in an area under-endowed with formal retail establishments. Many of the tenants interviewed for the purposes of this study bought fruit and vegetables for local street traders.

Street trading also provides an income for many residents who have been unable to access jobs in the formal economy. The study area often provides both a home and a trading space for such traders, and there is evidence that the ability of such traders to survive is heavily contingent on their ability to remain within the inner city (COHRE 2005).

The zoning map remains totally silent on the reconfiguration of zoned retail space and presence of retail activities within buildings. Generally the trend within zoned retail space is for subdivision of the older and larger retail spaces into smaller shops. Miche Collins, a tenant of Metropolitan dismisses these establishments as ‘pieces of shops’ and really dislikes them, but understands that many communities are supported by the ‘pieces of shops’. She claims these shops are used only by Pakistanis and Nigerians.

The layering of shop signage suggests rapid turnover of retail establishments in the area, increasing the management costs of landlords and the ability of landlords to collect rents and service charges, forcing landlords to default on payments to the municipality.

There is some evidence that retail establishments like spazas, shebeens, hairdressing salons, laundry services and crèches are being operated from the upper floors of residential flat blocks where access control is not vigorously enforced. These businesses are generally run from private flats. In some instances, these businesses operate without the knowledge or consent of the owners. In other instances, the building owners encourage some non-residential uses within their buildings and may derive additional revenue from these uses. For example, there are five churches in the Ridge Hotel on Abel Road; an NGO that “rehabilitates sex-workers” operates from the mezzanine floor in Plumridge in Alexandra Street; and a new gym has just opened up on the first floor of La Rosa in Abel Road (See Appendices 4-21, 4-22, 4-23)
Andrew Shaeffer of Trafalgar says that many property owners have identified such uses as advantageous: “Our leases do not allow the running of businesses from private flats, but we have encouraged some owners to develop services like spazas or kindergartens. We make available laundromats and dryers or drying yards because these can generate income for the building. We are less interested in the revenue than the fact that service offers value to tenants. In an increasingly competitive market, it is important for each building to have a distinct advantage, relative to the building next door, to justify the enhanced rental and our ability to get a return for our owners.” For another owner, the rationale for developing a retail component within his building is the inadequacy of retail provision in the area and the problem of crime, which tenants experience moving from his building going to and from the shops. This particular owner envisages being able to accommodate the key needs of tenants within a single building or within a ‘safe’ precinct. He is planning to build “a little supermarket in our building or in the area”, because there are no good shops nearby.

The overall trend of trying to accommodate a tenant’s every need within a single building suggests that these buildings will function increasingly like enclaves, exclusive pools of privilege in a sea of poverty. This is likely to impact on the quality of street life and to widen the social divisions between those 'inside' and those 'outside'. The carceral spaces ordinarily associated with up-market suburbia may soon become increasingly common in the inner city.

Formal, informal and quasi-legal businesses operating within residential buildings create particular management challenges. All business uses within residential buildings compromise the safety and security of residents in that they inevitably invite non-residents into the buildings. Shebeens represent a particular problem in that drunk patrons might tend to be noisy and might infringe on spaces that are considered relatively private by other residents. Illegal liquor outlets are also increasingly associated with crime (Palmary et al 2003). Privately run laundry services operated out of flats are also problematic in that they tend to increase water consumption in the building – a cost which is likely to be passed onto other tenants, particularly in the absence of individualised water meters. Overtly Illegal businesses such as drug-dealing and prostitution within residential buildings are even more problematic in that these businesses are often associated with violence, and may compromise the physical safety of other residents.

4.2 Socio-economic conditions

According to Gotz and Simone, Johannesburg’s inner city has changed more rapidly than any other inner city in modern history, but this social and economic reconfiguration has been largely invisible because it has taken place within a dense and arcane physical environment (2003). The following section examines the changing socio-economic conditions in Hillbrow/Berea in terms of race, class and
ethnicity; socio-economic status; household composition and crime, teasing out the implications for land management and democratic governance.

4.2.1 Race, nationality, ethnicity and migrancy

In the last five decades the Hillbrow/Berea area has experienced successive waves of new residents. In the 1950s and 1960s skilled immigrants from Europe came to take up jobs during an economic boom. They were followed by a wave of local white residents, predominantly young, single or newly married, biding their time before moving to the suburbs. The mid 1970s saw the arrival of the first black residents, at first Indians and coloureds in defiance of the Group Areas Act, and later blacks. The illegality and vulnerability of these tenants made them particularly vulnerable to exploitation, which in turn contributed to the deterioration of the area.

Finally, “this accelerated turnover of population provided a cover for the sizeable immigration of foreign Africans to Johannesburg in the mid 1990s, a process that has profoundly reshaped inner city life and commerce and further contributed to its progressive internationalisation. It provided the impetus for new informal economies to flourish to the inner city’s increasingly crowded streets. (Gotz and Simone 2003) In a survey of residents living in Hillbrow hotels carried out in 2002, 36% of respondents were foreign; 62% of these were Nigerian and 90% male. Two thirds of foreign nationals had arrived in the last two years and over a third less than a year. (Leggett 2002)

These patterns of movement have contributed to the overwhelmingly fluid character of the area. According to a tenant survey conducted by Trafalgar in 2006, 38% of their tenants had moved into the city in the last two years. An interview with Andrew Shaeffer of Trafalgar reasserts these findings: “Our tenants are young, black and transient. They’re moving on and up. They stay on average 18 months to two years and aspire to move to slightly more upmarket areas – Bellevue, Midrand. Most of our tenants are from Soweto, rural centres, or part of a transient workforce under pressure to continuously upgrade their accommodation. Yeoville, Bellevue, Fordsburg are seen as one step up from Hillbrow (Shaeffer).

Some urban theorists have argued that residents' connections to the area are often tenuous and opportunistic: these residents rarely see the place as 'home', and are therefore reluctant to commit to the area¹¹. (See Appendix 4-24) According to Gotz and Simone this “instability and uncertainty has caused a huge reluctance to invest… The actors that do inhabit the inner city do so only in the hope of leaving as quickly as possible with sufficient resources to have made the stay worthwhile…

¹¹ One foreign national that we interviewed argued that only South Africans saw themselves as temporary residents in the area, given that they could move out and onto better things. Foreign nations, on the other hand, saw Hillbrow/ Berea as their permanent home – because they had nowhere else to go, given the impossibility of returning to their country of origin.
The inner city therefore represents a process of 'running away'. Black South Africans are escaping the implosive sociality of township life... Foreign Africans are running away from the impossibility of being at home... But the inner city presents neither group with a real place to be 'running to". (Gotz and Simone 2003). These sentiments are echoed by a City of Johannesburg official: “Zimbabweans – they just rent. The sense of pride is not there any more. Home is somewhere else.”

In the absence of feeling at home, residents must carefully negotiate new ways of being in the city, the outcomes of which are not necessarily beneficial to the city.

According to Gotz and Simone, two approaches are available to urban Africans who are in the process of constructing new urban identities: belonging or becoming. Belonging suggests the construction of narrowly circumscribed social formations – which often manifests in the development of ethnic enclaves or exclusive ghettos: a process which “increasingly zealous attempts to claim rights to exclusive geographic territories within which to profess highly parochial identities” (Gotz and Simone 2003) The second approach is becoming: “no less a response to a felt loss of membership is the widening of social spaces to a multitude of new translocal connections and associations. This process reflects attempts to ensure the stability of what can be constructed in any specific place by multiplying the possibilities for defining and exploiting any array of non-place-bound identities.” But these modes of becoming can be problematic:

- Firstly they may entail “highly tenuous and frequently clandestine articulations among religious networks, public officials operating in private capacities, client networks mobilizing cheap labour, foreign political parties, and large transnational corporations operating outside of conventional procedures. Multiplying possibilities also necessarily means 'hedging one's bets', and this often requires deception, dissimulation and circumvention. These practices thrive within, and work to produce, environments of intense doubt and unpredictability.”

- “Second, urban residents often maintain multiple memberships in various associations, religious groups, clubs and community organisations, simultaneously participating in formal and informal economies, dispersing dependants across different localities and spreading investment across a spectrum of different options. Such mobility and flexibility have disintegrating effects. For example, because of the sheer labour intensity involved in maintaining multiple connections and the limited number of hours available in the day, participation in any one institution can only be sporadic. Intermittent participation limits how effective or consistent institutions can be in managing the collective efforts necessary to obtain long-term objectives. (Gotz and Simone 2003) This analysis is echoed by the STTP report, which found that multi-nodal households were common in the five sectional title
buildings that were studied. Over 40% of residents said that they had a spouse or children living elsewhere. Residents expressed family connections to rural areas. (Shisaka 2006).

The heterogeneity of the population has also worked against any 'sense of community' or the possibility of collective action or collective engagement. Xenophobia and fear of 'the other' emerged as dominant themes in some interviews with different residents blaming different groups for a variety of problems. For Prince Ndevhu, a tenant at the Metropolitan, credit card fraud can be ascribed to the Nigerians: “It's prevalent at Hilton Plaza and Tandoor – a.k.a. Little Lagos”. Francois Kadima, himself a foreign immigrant, ascribes urban decay to the Ethiopians: “They live fifteen in a room.” One city official involved in land use management in Hillbrow notes that in some buildings there are certain floors occupied by South Africans, and other floors by other nationals – a ‘Nigerian floor’ for example. He says the rent extracted from the ‘Nigerian floors’ are often much steeper than that required from South African tenants. Pervasive xenophobia is also reported on by Leggett (2002): “Out of 200 people surveyed in 10 residential hotels in Hillbrow, 62% said they had been assaulted by local residents merely for being foreign, and 43% had been asked for bribes by South African authorities.”

4.2.2 Affordability

The most significant trend that can be identified in the study area is that current residents are significantly poorer than the residents the suburbs were originally designed to accommodate. Hillbrow/Berea of the 1920s, 30s and 40s was designed to accommodate an upper-middle class population housed in large two- and three-bedroom flats. In the 1950s, 60s and 70s, this situation changed with the two townships targeted primarily at a middle class population in the context of full, formal employment.

However by the mid-1990s, the area’s population was significantly poorer: in the 1990s, residents might have worked intermittently in the formal sector, in the informal sector or were unemployed. Residents who had employment would have appreciated the area’s good location relative to job opportunities. Residents relying on informal trade would have appreciated the large markets associated with heavily trafficked, dense urban areas. Access to relatively good public transport would also have been highly valued by both groups. This situation effectively provided some room for the poor, albeit in decaying buildings in a deflated property market.

The most significant, more recent, trend, however, is that this situation is now being reversed. There are indications that the Hillbrow/Berea area is rapidly gentrifying. This is the result of the actions of a small number of property owners who have

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12 Not his real name
been acquiring large buildings, renovating these buildings and renting these renovated flats to an increasing middle class clientele – somewhat poorer, than the middle class residents who lived in the area in the 50s, 60s and 70s, but significantly richer than the residents who lived in Hillbrow/Berea in the 80s, 90s and first few years of the new millennium. Today demand for flats outstrips supply. This demand is likely to be driven by two factors: a desire to live in the inner city because of its locational advantages as well as the undersupply of housing stock to cater for the gap market – people who earn just above the subsidy bands, but not enough to afford a mortgage. Increasing demand and short supply has allowed property owners to become progressively selective in choosing their tenants – yet another factor which will inevitably push out the poor.

According to one large property owner, buildings are full and rentals are good. He estimates that there has been a 300% escalation of property prices in 3-5 years. This was, however, off a very low base. “Properties have gone up astronomically. I came in 1982. It was like the Wild West. In those days they couldn’t give away properties. But now buildings are full. Billions have been poured in by the private sector – to purchase, to change buildings from offices to residential, and to refurbish” (Miller). Another large property reports even more significant increases in property prices: “Flats which cost R5 000 in 1994 are being sold at R180 000, now that they have been refurbished and are being well-managed. Andrew Shaeffer of Trafalgar confirms this trend. According to the Trafalgar report, rent for a one-bedroom flat was R800 in 2001. This had risen to R1 800 in 2006. (See Appendix 4-25)

The Trafalgar report acknowledges that inner cities are indeed gentrifying and this has significant consequences for the poor: “What has emerged [from the 2006 report] is the extent to which the growing demand for quality inner city accommodation is creating pockets of gentrification and displacing the poor. While the demand brings with it long-awaited impetus for renewal, it also has the effect of moving the problem of accommodating the poor…” (Trafalgar 2006)

Gentrification has been actively encouraged by the City through various inner city regeneration initiatives. While a significant amount of irreplaceable building stock has been rescued though this process, the effect of regeneration has been displacement of the poor. This has either taken place through the quiet operation of the market or through the more visible process of evictions.

One of the large property owners explains the process:

“In the first decade after 1994 there were many ‘cheap’ buildings available in the Hillbrow/Berea area. These were owned by investors who could not collect rentals, who were afraid to enter the area or approach their buildings and who, as their costs to the City increased, became desperate to dispose of the buildings. At that
stage new investors were buying buildings for R10 000 – R20 000 per flat. There were even cases where the costs amounted to only R5 000 per flat. As an indication of the extreme increase in value and prices, these same buildings, now refurbished and well managed, are being sold at prices of R180 000 per flat. Even buildings that are in bad shape will sell for R180 000 per flat unit.

The growth in building prices in the last four years has outstripped the growth in rentals. The escalation in prices and concomitant reduction in yield has been pronounced since 2003. Previously the rents that could be charged relative to building prices saw investors getting returns of 25%-30%. These yields are now in many cases around 10%. With bond interest rates at 13%-15%, the investments are becoming less viable. The implications are that as rentals increase the poor are less able to access accommodation in upgraded buildings.

Investors who have been in the Hillbrow/Berea market for a long period face a conundrum. (Some building owners) have traditionally been able to offer high quality, well managed buildings at rentals that are 20% lower than the market norm in the area. Now they are buying buildings at much higher entry levels and cannot offer these at the same low rentals. Their returns on more recent acquisitions are lower. But it is difficult to charge higher rentals or to increase existing rentals in line with the market average: “Where we refurbish an empty building, we can let it from scratch at market related rentals”, but, “housing has such a social connotation that it is difficult to increase rentals beyond 10%.” This is also a major problem for landlords who are purchasing occupied buildings and refurbishing these. Housing the same tenants in the refurbished buildings means keeping the rentals at similar prices.

The Hillbrow/Berea area nevertheless continues to offer a wide range of accommodation to people with widely differing affordability levels.

The most recent social survey in the study area was carried out in June 2006. This formed part of the Sectional Title Pilot Project (STPP) and was intended to probe five sectional title buildings in the north of Hillbrow. Although the focus of the social survey was to examine the problems arising from sectional title tenure specifically, the survey nonetheless presents a useful indicator of general socio-economic conditions in the area. Data from the STPP is supplemented by socio-economic indicators extracted from the Trafalgar Inner City Report (2006), the COHRE report (2005), and interviews conducted for the purpose of this study.

According to the STPP, residents’ incomes in four of the five buildings studied were quite varied, except for one – Grasmere where incomes were universally low. In all buildings, at least one quarter of the residents earned between R1 501 and R3 000. Both the large size of the flats in the five buildings surveyed in the STTP, as well as affordability issues might have prompted owners to sublet: 57% of people living in
the building were tenants even though sectional title buildings were expressly intended to facilitate ownership. Furthermore, when owners chose to reside in their flats, they often decided to sublet, (73%) to strangers they “didn’t know before” (Shisaka 2006). It is likely that extremely unstable relationships result when strangers are forced to share a room.

The Trafalgar tenant survey in Johannesburg reports slightly different findings. Only 10% of tenants report a household income less than R1 500, while 40% report an income of between R1 501 to R3 000 and 33% earn between R3 001 and R5 000 per month. For Trafalgar’s tenants the most appealing part of living in the inner city is proximity to work (59%); proximity to schools (18%) and affordability (9%).

The target market of the Ithemba property portfolio is the “normal middle income market. We are in R1 500 to R3 000 market” (Miller).

Tenants in the five STPP buildings paid an average of R1 460 per month, and overall rentals and services charges together comprised just under a third of household income. This is slightly cheaper than the rent charged in La Rosa, a newly renovated rental block. Here, a bachelor flat costing R2 000 a month (including services) could be rented to a household earning a minimum of R5 500 gross. (Kgopotso Moonyemohonoe) This amounts to about 40% of household income spent on housing, significantly higher than the 25% recommended by mortgage institutions.

According to the COHRE report, the socio-economic profile of the occupiers of ‘bad’ buildings can be described as follows:

- The vast majority of respondents (97%) in each building said they earned less than R3000 a month;
- Major bread winners in each unit had entry level formal jobs in the inner city or were engaged in informal survivalist activities;
- For 45% of residents, reduced transport costs by virtue of their central location was a significant factor;
- Respondents said that the inner city was an easier place to find work or to survive without formal work than the townships, informal settlements or rural areas. (COHRE 2005:50-51);
- According to COHRE, there are 20,500 households earning less than R3200 living in Johannesburg inner city.

Francois Kadima\(^{13}\), a Congolese immigrant who was interviewed for the purpose of this study paid R650 for his room, which he shared with three other men. He acknowledged that this was very cheap and was the result of an informal

\(^{13}\) Not his real name
arrangement with the current building owner. He said that other tenants in the building were paying twice this amount for a room.

Ted Leggett’s survey in ten Hillbrow hotels in 2002 established the following: “Despite the option of paying daily, most residents reported paying for their accommodation by the month with 57% saying the monthly rental was less than R1 000 and 17% between R1 000 and R2 000. None of the respondents mentioned prices of over R2 000 a month. Less than a third were compelled to pay the full amount, with 55% paying between 10% and 50%.” (2002)

We are aware of two formal, subsidised rental buildings in Hillbrow/Berea that provide relatively inexpensive accommodation.

- The refurbished Europa Hotel, which provides short-term transitional housing and rents rooms at R600 a month. The Europa is owned by the City of Johannesburg and managed by Madulo Moho. Tenants rent rooms and have access to communal ablution and cooking facilities.
- The Rondebosch building, which provides communal housing (rooms with communal ablutions) and rents rooms at R700. These rooms are available for an indefinite period. The building is owned and managed by the Johannesburg Housing Company.

Brian Miller, chairperson of POMA (Property Owners and Managers Association) and CEO of Ithemba Properties, considers the Europa to be “a perfect example” of low cost housing, but, he says, there are only 170 rooms. The stock in this market must be increased. He says the private rental market caters for a particular income group – “but council must cater for the other part of the market, who will become part of our market in five years” He notes that the Councils’ property company, JPC, is “sitting on” 200 buildings – buildings that are ideally suited for low-cost housing. Many of these buildings are empty and refurbishing them would be “no problem”. POMA offered to form a Sectional 21 company to manage low-income and transitional housing properties in Hillbrow to house people who can afford rentals of R500 to R800 a month. The City would bear the costs of upgrading the buildings from the BBP, and would employ POMA on an agency basis to manage these properties, with the City paying a fee per unit per month.

Carien Engelbrecht, an expert on urban regeneration and currently engaged in a venture capital company investing in the inner city concurs: the City is allowing gentrification through abdication of responsibility. There is huge energy from the private sector in providing middle class housing – which will transform the city; but the Council is not getting its act together in providing 20% of housing for the poor. The Council should be holding onto condemned buildings for subsidised stock, rather than auctioning them off to developers.”
Miller maintains that there is no need for poor inhabitants of Hillbrow, who can afford some rental, to live in the conditions they are being subjected to – of high levels of crime, the absence of services and harassment by slum-lords.

Miller says the Council’s policy on low cost housing has not been implemented. He says more, rather than less, buildings have been invaded in the period since the Council has started paying attention to the inner city. More people are living in bad conditions. The Municipality’s slow processes, in the meantime, are hampering rejuvenation.

Another rental option for low-income households is subsidised rental flats or social housing, developed with ‘institutional’ subsidies offered by the national Department of Housing. The Johannesburg Housing Company, for example, offers subsidised bachelor flats starting at about R1 000, and unsubsidised flats for about R1 400 in the Hillbrow area. JHC offers a balance of unsubsidised and subsidised units within its developments in a ratio of approximately 60:40 but this varies from building to building. Adler says their developments that offer rooms tend to be more stable than developments with flats because the price is lower.

The COHRE report acknowledges that social housing offers some benefits – but there is not enough of it and the rents are not low enough. Many poor people in the inner city need “open-ended, secure access to basic shelter at rental rates of as little as R50-R100 per month… Provision of ultra low cost housing in the inner city is likely to require a new and ongoing subsidy mechanism, perhaps provided at municipal level.” (COHRE 2005). Chris Lund who is involved in the management of the Europa hotel poses a similar challenge to the municipality: “Is the CoJ going to intervene in pro-poor housing, or allow free market forces to operate? There should be some intervention now, since in 20 years time there will no longer be gaps for poor people to come into the city. What must the private sector do?” (Minutes of Inner City Summit and Charter Process: Residential Stakeholder Meeting 3). It is highly unlikely that the free market system will service the poor, without state intervention.

It is significant to note that the rents in ‘formal', tightly managed buildings operated by the likes of Trafalgar, Jozi Housing, Ithemba and the Johannesburg Housing Company are not significantly different from the rents being charged in badly managed buildings. This is confirmed by George Palmer of Connaught Properties, one of the big formal owners operating in the area. “We are currently providing 400 units of 40 square metres bachelor accommodation at R650 per person, or R1 300 per month shared, excluding services... Slumlords charge R600-R700 a month for communal housing, which can be for a partitioned-off area in a bad building. Communal housing rentals are going for R700-R1300 a month for decent accommodation” (Excerpts from Minutes of Inner City Summit and Charter Process: Residential Stakeholder Meeting 3)
However, there may be obstacles that inhibit access to these more formal rental options. One of the big landlords, for example, takes only South African citizens. “For me it’s ‘Right of admission reserved’. These other guys are ghosts. You don’t know how many false documents are floating around.” The large deposits that the property owners charge might also constrain access. Deposits are in the region of four times the monthly rent. (JHC 2006)

It would appear that neither formal options, whether subsidised or not, nor slum landlords can offer rooms at less than R600 a month.

4.2.3 Household composition

The Hillbrow/Berea area has seen radical changes in household composition over the years. The suburban character and large two- and three-bedroom flats that dominated prior to the post WWII boom suggest an area targeted at nuclear families living at relatively low densities. It is likely that the social needs of these families were adequately met by local schools, clinics and parks. The 1950s, 60s and 70s, however, heralded a radical shift in the kind of households living in the area, evident from the nature of accommodation that was provided – mainly bachelor flats or one-bedroom flats designed to accommodate large numbers of single people, young couples and elderly people.

The composition of black households living in the Hillbrow/Berea in the 1990s was not significantly different to that of the 60s (Morris 1999). Although many of these new residents often had children, they elected to leave these children with family in the townships or in the rural areas. This may have been due to a shortage of childcare facilities and schools in the area, or a consequence of resident’s tenuous connections to the area and their perceptions that Hillbrow/Berea was a steppingstone to the suburbs. According to Gotz and Simone, “Children residing in the inner city continued to commute to Soweto for school and most of the trappings of community life remained located ‘back home’. (Gotz and Simone 2003)

It is difficult to determine the nature of household composition today. According to the Trafalgar Inner City Survey of 2006, “Trafalgar tenants in Johannesburg are typically black, under 30, male and more likely to be married than single. Half of them moved to the city in the last two years. A quarter of tenants are under 21 years of age, 37% are between 20 and 30, 31% are 31 to 40. About 47% of tenants have children.” These findings are echoed in STTP report – which recorded that half the residents of the five blocks of flats were married, however only 28% of units were occupied by families with children. (Shisaka 2006). The demographic profile of immigrants is somewhat different. A survey of 200 residents in ten Hillbrow hotels established that 90% of foreign nationals were male (Leggett 2002).
According to Setplan Dludla “The age profile of the population of the study area, Hillbrow and Berea in the 2001 National Census indicates the majority of the population being between the ages of 15 and 34 years of age (67% in Hillbrow and 66% in Berea).

**AGE PROFILE**

<table>
<thead>
<tr>
<th>AGE</th>
<th>BEREA</th>
<th>HILLBROW</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-7</td>
<td>4 227</td>
<td>5 243</td>
<td>9 471</td>
</tr>
<tr>
<td>8-14</td>
<td>1 656</td>
<td>1 784</td>
<td>3 440</td>
</tr>
<tr>
<td>15-21</td>
<td>6 308</td>
<td>7 214</td>
<td>13 522</td>
</tr>
<tr>
<td>22-34</td>
<td>20 697</td>
<td>26 160</td>
<td>46 857</td>
</tr>
<tr>
<td>35-44</td>
<td>4 621</td>
<td>5 998</td>
<td>10 619</td>
</tr>
<tr>
<td>59-64</td>
<td>409</td>
<td>398</td>
<td>808</td>
</tr>
<tr>
<td>65-80</td>
<td>531</td>
<td>362</td>
<td>893</td>
</tr>
<tr>
<td>81+</td>
<td>103</td>
<td>63</td>
<td>166</td>
</tr>
</tbody>
</table>

*Source: Statistics South Africa, Census 2001*

The very young nature of the population and predominance of males is reflected in the Household Structures. Only 26.7% of households are families, 32.9% of people are “friends” and 27.1% are “households” of people under 18 years of age staying with friends, as illustrated in the following figure.

**HOUSEHOLD STRUCTURE**

*Source: Setplan Dludla Dev. Household Survey May 2004*

Our own interviews revealed a diversity of household arrangements with instances of households comprising up to four men sharing, men living alone, women living alone, and a number of couples. Some women had elected to leave their children ‘at home’ with family members, others had chosen to rear their children in
Hillbrow/Berea but were deeply concerned about the lack of childcare facilities in the area. They acknowledged that they did not know what they would do when their children reached school-going age.

The absence of crèches is a particular problem for the sex-workers in the area. Lindiwe Radebe\textsuperscript{14} who works in a NGO that rehabilitates sex workers recounts what happens to children of arrested sex workers in the absence of adequate childcare: “Occasionally there might be an older woman who looks after the children and who gets paid for this on a daily basis. However, if a parent is arrested by the police and she cannot get word to the care-giver, the parent is presented with big bill for childminding when she gets out of jail… The woman might not get her child back again. These 'care-givers' sometimes place the children of indebted parents in the sex work business to pay for their mother’s debt. We know of a nine year-old to whom this happened.”

There is a significant shortage of crèches. This was alluded to by many of the tenants interviewed for this study and by all of the large property owners. The property owners explained that municipal requirements for crèches are so stringent that it is difficult to register these. Building owners and managers do not want unregistered crèches on their properties.

It would appear therefore that there is a severe shortage of appropriate social facilities in the area that might serve the needs of both the very poor and the better off. One large property owner, for example, complained of “inadequate social infrastructure to service the new tenant-base of middle-income, family-oriented residents in the area”.

According to Gotz and Simone the general lack of social services can be ascribed to the fact that the influx of migrants outpaced the development of local institutions (2003). We could find no firm figures about the availability of social services, but the current zoning map suggests only three sites zoned “educational”. Recent application trends confirm this shortage: two out of the four planning applications received by the land-use division of the City’s planning department are for the development of two new private schools in the area. (Interview with Tshepiso Lentsoane)

\textsuperscript{14} Not her real name
4.2.4 Crime

The absence of social capital in the inner cities can be ascribed to the absence of adequate social facilities, residents’ tenuous connections to the area, and a growing sense of political frustration in the immediate aftermath off the transition to democracy: “… the snail’s pace of change in the post-1994 period meant that few expectations of urban renewal, housing development, schooling improvement, job creation, or service delivery were realised. Frustrated expectations of change entrenched social conflict in the cities, frequently resulting in increasing, rather than decreasing, levels of violence and crime. The transition to democracy therefore appears to have compounded the problems associated with Apartheid’s historical decimation of the social fabric of cities. (Palmary et al 2003) This resulted in high levels of crime, and crime, in turn because it engenders fear, further undermined social relations.

A survey conducted by the Institute for Security Studies identified “Hillbrow’s sleazy hotels”, for example, as notorious crime hotspots, with residents being startlingly frank about “the prevalence of drugs, commercial sex-work and corruption” (Leggett 2002). A quarter of the people surveyed said that drugs were sold in their building, and 75% said that women sold sex in their building.

The NGO worker involved rehabilitating sex workers who was interviewed in the course of this study specifically connected criminal activity to ‘bad buildings’. She described the process as follows: “Many young people who are looking for jobs or have jobs that do not pay well end up living in the ‘bad buildings’. These buildings house criminal activity and some get away with paying no rent. These buildings house mainly unemployed people, criminals and sex workers. The reason is that some buildings have no owner, no electricity and no water – so people just inhabit these places. San Jose is one of the places where many of our clients are and many sleep with men in order to have something to eat.” Buildings where municipal services have been cut provide perfect cover for criminals. According to another NGO worker, “Criminals are safe because there is no electricity and they cannot be identified... Streets such as Olivia which has the African Sun Hotel and Quartz Street have lots of brothels disguised as hotels which drug dealers and thieves use for shelter”.

Dladla has also found a link between badly managed buildings and crime: According to Dladla’s investigation of homeless women in Johannesburg, “...the (homeless) women’s perceptions of fear and safety are not simply about dangers within the public spaces, but also about danger within the private spaces, which for them are not quite private because they have to share their spaces with others. The women’s houselessness is connected to their vulnerability to many types of danger including rape assault, domestic violence and HIV/AIDS. In general the women
living in those places with no management and no security felt that they were unsafe and vulnerable to crime.” (Quoted in Palmary et al 2003)

The COHRE report takes a somewhat different view: “COHRE’s investigation found that the municipal caricature of 'bad buildings' as crime-ridden 'sinkholes', belies the fact that these buildings are often populated by large numbers of ordinary people... (who) are anything but criminal. The fact that people live under such poor conditions is a reflection of their desperation for housing in the inner city, not a reflection of their propensity to commit crime... While unmanaged buildings are, often, magnets for criminality, this does not occur in all cases. Moreover, when criminality does occur, the ordinary occupants do their best to avoid and if possible to resist the activities of the criminals.” (2005) The COHRE report found that most of tenants in bad buildings tended to be victims of crime rather than perpetrators.

Engelbrecht argues to the contrary. She says that ‘bad buildings’ are a launch-pad for crime. While she agrees with COHRE’s fundamental proposition that closing down 'bad buildings' undoubtedly displaces the poor, she also believes that criminal activities launched from these buildings actually creates poverty because “the effect of crime in an area will shut down businesses, which means that people will lose jobs etcetera.”

Crime also increases the costs of doing business – a cost that is ultimately transferred to the person in the street. Engelbrecht asks: “How easy is it to shop safely in Hillbrow? Do you travel to Eastgate to the big supermarkets where the prices are cheaper and then, overloaded with packets, get mugged on your way home, or do you buy small stuff at twice the price at the local café?” Crime, according to Engelbrecht, also affects shop owners. “Delivery services don’t deliver in the inner city. Delivery vans get stolen. You can’t get cash in and out of Hillbrow, so you have to hire Fidelity Guards who charge 5% commission on the cash that they are carrying. Then the prices go up because you have to pay extra for everything. I know of one big bakery which sells broken cookies and has 12 uniformed and un-uniformed security guards – all armed – patrolling the store.”

The immigrant status of many of Hillbrow/Berea’s residents may also make the area a magnet for crime, largely because of the immigrants' vulnerability. Palmary et al argue that areas known to be occupied by foreigners – like Hillbrow and Berea – may also attract crime. A Rwandan man has been quoted as saying: “Firstly we are staying in the dangerous cities. Here in Johannesburg, especially in Hillbrow, Yeoville, Berea, Bertrams [there are many killers]... [Secondly] when those thieves, robbers, gangsters, pickpockets etc. learn that you are a foreigner, that exacerbates the situation (Quoted in Palmary et al 2003). This echoes Leggett who says that the immigrant community are “disproportionately the victims of crime”. (2002)
Kayaya Tshombe\textsuperscript{15}, a foreign national who we interviewed recounts his experience of crime in the area: While working as a security guard at The Ridge Hotel, he was shot in the stomach [on 20th February 2007]. Tshombe says this has changed his prospects in South Africa and in the area. “I have not worked again. Before; I studied during the day and worked at night, now I just study.” He studies Business Computing at Falcon Business College in Johannesburg. When asked how he survives without employment, he responds, “I am doing some business”, making hand movements under the table to indicate that his trade may not be 'above board'. “This place is not safe. I now think that the DRC is better. I got shot here, now even my family don’t want to come. When I finish my studies, I’m going back to the DRC.” Another foreign national says, “We are living by the grace of God – and even though we are now friends with tsotsies – it doesn’t help. They can show us guns. We have seen a gun many times… We once caught a mugger. When the police came; we said ‘don’t be in a hurry’. We want to give him a lesson. Then we broke his leg. The tsotsies they are very dangerous and they target women and foreigners. Women coming from work, they know they’re tired and have money. The worst is if they don’t find anything, they shoot you or they stab you. Anyone who has been pointed by a gun, whether you are a president or a king – you do what they want.”

Martin New, erstwhile Operations Manager of the Inner City Task Team describes the extent of crime in the area. According to New, there is a great deal of openness about the use of drugs in Hillbrow: “We find many crack pipes in buildings. In the rooms we see the carving and the chopping boards. And there are guys running prostitution rings. We have gone into rooms where the girls are kept behind security gates. There are basements being used by car syndicates for stolen vehicles. Then there are 419 scams being run out of Hillbrow flats. There are banks of computers in some flats. We have found human trafficking”.

A tenant survey carried out by Trafalgar reported that only 44\% of tenants believe the inner city is a safe place to live. Harriet Batleng, a tenant in Berea says: “I’m scared of Johannesburg. I go to town and come back – I am scared to walk. The bad thing – there is crime in Berea, Yeoville and Hillbrow. You can come back from work and get robbed. I won’t walk around at night. If I visit my friend in Yeoville. I have to come back earlier…” Engelbrecht says that “tenants don’t go out after 7pm because the Improvement District guards knock off after 6pm: when visible policing disappears streets become unsafe.” This has impacted on street life generally, reinforcing a vicious cycle – the more people desert the streets because they are unsafe, the more unsafe the streets become.

Notwithstanding these negative reports, many residents interviewed for the purposes of this study said that they feel relatively safe in Hillbrow/Berea. This can

\textsuperscript{15} Not his real name
probably be ascribed to the fact that these areas may be considerably safer than the townships from which people may have moved or from the war-torn countries they have left. Kgopotso Moonyemohonoe who lives in Berea and works in the inner city says she has never experienced crime, although she hears that it happens to other people. Although she knocks off work at 9pm, she does not really worry too much about her safety, but admits that she is lucky enough to have special transport which brings her home after work. Prince Dube, a tenant in Berea also feels it is “not so dangerous; the only time to be afraid is during the night.” Miche Collins, says has never been robbed in her 14 years of living in Berea - even though she occasionally walks around at night. She is careful though to avoid certain risky streets.

4.3 Institutional context

The first few years of democracy heralded dramatic changes for local government as municipalities restructured themselves. The different racially-based institutions which had controlled separate parts of the City were brought together as a single City government in response to calls for ‘one city, one tax base’. Initially the City was arranged into four metropolitan sub-structures with the inner city straddling three of these. This severely impacted on the Municipality’s ability to maintain a level of administrative and maintenance control over the inner city. Administration and operational management of this area, which for all geographical, economic, and social consideration constitute a single entity, were now managerially split, with each local metropolitan substructure charting an independent path (Johannesburg, 2001). Martin New, who directed the Inner City Task Team, argued that this gave rise to considerable fragmentation and in many instances neglect. “Do you think Sandton gave a damn about Hillbrow? This added to the decline. We used to call it the Troye Street Wall (referring to the boundary line between different administration zones).” Alongside these three authorities, the City Planning department also maintained a stake in the inner city. “The result was confusion. Given the poor communication and conflicting goal, approaches and projects, many opportunities to fix the inner city were simply squandered” (Johannesburg, 2001).

At this time the Johannesburg Municipality was also rocked by a series of financial crises with the result that “the municipality did not accord particularly high priority to the enforcement of building standards and regulations and municipal health and safety by-laws.” (COHRE 2005). This inability to manage the physical environment was accompanied by the Municipality’s inability to manage the billing or collection of fees or to budget for non-payment. This contributed to a worsening of the situation. Aggressive capital expenditure elsewhere in the city also drained operational coffers. The decision to focus on meeting basic needs in formerly neglected areas had direct correlations with a lack of attention to better-resourced areas like Hillbrow and Berea. In a book documenting the financial crisis and turnaround in Johannesburg, one city advisor is quoted as saying that the City
chose to direct money away from ‘regulation’, towards ‘development’ (Johannesburg, 2001).

It is likely that the Municipality’s own attitude to Hillbrow/Berea was ambivalent. Pro-poor elements within the City might have lobbied for a *laissez faire* approach with the view that the absence of intense urban management had created gaps that the poor would appreciate. Other parties in the Council would have argued for the re-instatement of tighter, more modernist urban controls.

Further re-organisation of the municipality took place in 1997, and by 2001 municipal government had evolved into the Greater Johannesburg Metropolitan Council with a single revenue base, organized into 11 administrative regions and a number of service agencies. The idea was that these utilities would be ring-fenced and would contain costs by adopting a business approach. According to Everatt, “four imperatives of this institutional change were:

- The institutional separation of policy formulation and delivery responsibilities, following the principle established in Thatcherite Britain of needing to ensure a client-contractor split;
- The commercialisation of service delivery, in part to re-attract capital in a virtually stagnant municipal debt-finance market;
- Minimal cross subsidies between parts of the administration to force commitments to financial and operational efficiencies by all staff; and
- A ‘management by contract regulation’ approach to governing the city whereby all staff are locked in to meeting inflexible service delivery targets fixed by performance contracts, service level agreements, utility licenses, etc.” (Everatt et al 2004)

This arrangement was the culmination of the Igoli 2002 strategy, a five-year plan which “heralded the centralisation and corporatisation of city government and the cementing of its role as a facilitator of market-led local economic development.” (COHRE 2005)

This period coincided with the establishment of the Inner City Office (ICO), which was set up “to reconcile the increasingly contradictory policies and programmes of the four distinct political authorities”. According to Gotz and Simone, the “Office functioned as a project design and facilitation unit, structuring a range of urban environmental upgrade and social and economic development projects.” The ICO took a conscious decision to adopt a project approach rather than bluntly apply the law because “development projects provide concrete opportunities. They invite or expect beneficiaries to act in new ways for the sake of their own well-being, rather than directly proscribing how they must act for the sake of the cleanliness and order of inner city spaces” (Gotz and Simone 2003:136).
In 2002 the ICO set up the Inner City Task Team to deal with day-to-day management in an area that had effectively disappeared off the urban management radar of the City.

The task force was under the management of Martin New, previously in charge of building control functions in the city. New recalls his early days in the task team: “When I came in here there was nothing… There wasn’t an existing department. I tried to get data on the area – but there was nothing. I expected there to be tools to work with, but there were none. People had a vision of what they wanted – but didn’t know how to get there in this high-density, high-rise environment. I spent a year breaking silos. I started grabbing people from departments. We had to take bold steps that were reactive to arrest the state of severe decay, which had started in the 1980s. I got two senior people from planning control. We walked the streets. That was how we could get a picture of what was happening. I spent that first year listening to everyone – good people and bad people. We didn’t know then whether they were good or bad”.

Three years later however, the ICO was disbanded and its responsibilities allocated to three new structures: “the City’s conventionally styled Planning Department, an Inner City Regional Administration responsible for overseeing urban service standards in the area, and the Johannesburg Development Agency (JDA) focused on managing large-scale economic infrastructure investments in various parts of the city.” (Gotz and Simone 2003).

The Inner City Task Force continued to function but its powers were effectively reduced after the ICO was disbanded. Its role was confined purely to urban management, rather than the more broadly defined task of regeneration which was allocated to the Johannesburg Property Company, Johannesburg Development Agency, housing companies and the private sector.

The City is currently revising management structures for the Inner City, in the light of the Inner City Charter and the commitments that the City is making to oversee interventions and day-to-day urban management in the area. These will include a Charter Partnership Forum with membership drawn from the City and “inner-city stakeholders”. Representation on this forum will be at “the most senior level”. An Inner-City Programme Manager has been appointed to do the following:

- Integrated planning (strategic planning and budgeting).
- Programme management project co-ordination.
- Stakeholder engagement.
- Championing the inner city (relationships and marketing).

This manager will be supported by two management teams: the Programme Strategic Team and an extended Programme Management Team. These new
institutional mechanisms, with their area-based focus, hold out hope for replicating
the best achievements of the earlier Inner City Office. This area-based focus is in
line with best practice internationally and locally, as demonstrated by the particular
success of the INK project in eThekwini (See section 7.1 below).

4.3.1 City-wide strategies

Several broad strategies have been developed for Johannesburg over the past
decade. Early plans were focused on economic growth and shared the boosterist
tone of the provincial plans that were developed in the early years of democracy.
These plans were subjected to various critiques, which resulted additional
strategies being developed to supplement the growth-focused plans that had
initially emerged. In addition, integrated development planning was undertaken,
largely in line with the overall vision for growth. More recently a shift towards
embracing developmental concerns has emerged. There has also been a strong
effort to integrate the disparate strategies of the City and to develop a bold new
vision which is both growth and developmentally focused (the Growth and
Development Strategy or GDS). This new strategy informs the work that is being
undertaken at a strategic level in the study area.

While the vision of the GDS, with its attempt to balance both growth and
development is generally sound, its realisation at an institutional level has not yet
been achieved. While it has indeed cascaded down into strategic plans – with all
plans being framed in terms of GDS objectives, these plans have not been
operationalised in terms of projects, programmes and day-to-day land
management decisions.

This section describes the key plans that have informed city wide planning and
have in turn informed thinking on the inner city to date.

4.3.1.1 Joburg 2030

Punted as ‘the high road to growth’ (Joburg.org.za), Joburg 2030 was an
overarching plan for Johannesburg as a ‘world class city’. The plan placed an
emphasis on boosting investment and promoting economic growth, particularly on
boosting those industries that have the greatest advantage for the City in terms of
economic growth. It is geared at playing to a service sector strength, “helping the
city grow into an export-oriented hub, closely integrated into the global economy,
with the emphasis on trade, transport, financial and business services, information
and communication technology, and business tourism” (Joburg.org.za).

The vision was one of sustained economic growth, and in turn greater employment.
This requires the City to address blockages to investment, including a lack of skills;
high levels of crime; inefficient public transport systems; inefficient urban form;
overburdened telecommunications; and weak supportive conditions for SMMEs. The vision was built on the understanding that by 2030 a number of these citywide “inefficiencies would have been ironed out” and the city would:

- Be dominated by service sector activities;
- Be integrated and open to international trade, also making it susceptible to international slowdowns and recessions;
- Have labour that is predominantly 'white collar' and 'blue collar' with a culture of numeracy;
- Not have a survivalist informal sector;
- Have a geographic pattern with as strong North-South axis along the Gautrain route;
- Have resident housing close to places of business;
- Have bylaw enforcement to international standards;
- Have citizens that are numerate; and
- Have quick, safe and efficient public transport.

Joburg 2030 did not address developmental concerns. Furthermore, it was based on outdated and inaccurate information (such as population trends in the city thought to be 1% rather than the Census figure of 4%).

The implications of this vision for the inner city have been significant. It is a vision that led the regularisation of informal traders in the inner city and law enforcement actions against all ‘illegal’ trading. It is also a vision that is focused on encouraging private sector investment through tax incentives and through partnering with private land owners to create City Improvement Districts – precincts of increased service provision in selected areas of the inner city. The vision to boost growth set a framework for several high-end flagship projects. It is significant that while there are a number of government-led flagships projects in the vicinity of Hillbrow/Berea these fall outside the boundaries of the study area, suggesting significant neglect. In this respect Hillbrow/Berea is something of a developmental 'black hole'.

In terms of residential development, the focus of city plans has been on the refurbishment of derelict buildings, in terms of the Better Buildings Programme, discussed below in Section 5.2, and their conversion to flats aimed at a predominantly middle-income clientele. In addition selective high-end developments of penthouses and boutique institutions have also been encouraged.

The blindness of the strategy to developmental issues has meant that a focus on residential development for low-income people was not prioritised. Similarly the development of social facilities was generally neglected. No support for informal business, beyond regularisation, was forthcoming. The strategies that flowed from this vision, including a 2004 Economic Regeneration Plan for Hillbrow/Berea focused on such concerns as cleaning up the area, encouraging private
development, and on clearing the area of street trading. (Setplan Dludla Development 2004)

4.3.1.2 Human Development Strategy

This strategy is aimed at addressing the weaknesses of Joburg 2030 in relation to concerns about issues of poverty, inequity and exclusion. It proposes three courses of action for the City:

- **Safeguarding and supporting:** This element proposes a social package to safeguard households against poverty. It also proposes mechanisms to facilitate access to grants for Johannesburg residents.

- **Championing rights and opportunities:** The strategy proposes measures to address unequal access of would-be entrepreneurs and job seekers to economic opportunity; measures to address the unequal burden that the poor carry in terms of the costs of poor settlement design; and measures to address the unequal access of women and children to the future benefits of the city. Here a massive investment in Early Childhood Development (ECD) is mooted.

- **Building prospects for social inclusion:** The strategy includes measures to benefit groups that are vulnerable to exclusion including youth and migrants; it proposes measure for civic inclusion, for public space enhancement and for building partnerships with community organisations.

The strategy foregrounds the developmental concerns of areas such as Hillbrow/Berea. It has not been followed up with institutional or resource mechanisms to realise the goals of the HDS in this area. Without a concerted effort to do so, the strategy is of little value to the study area, in spite of its appropriateness in this context of increased densities, of new household structures, of poverty and conditions of vulnerability, migrancy and informality.

4.3.1.3 Growth and Development Strategy

This strategy is a long-term strategy for economic growth and poverty reduction in Johannesburg. It brings together and revises the range of strategies that have been developed to inform the future development of the city. It consolidates these, updates the trends and data for the city, and establishes a direction for all sectors of the city. It comprehensively deals with issues across the city, rather than providing only an economic or spatial or other focus.

The GDS is an attempt at long-term strategising for the City. It incorporates key elements of Joburg 2030 as well as the principles of the Human Development Strategy. It also addresses strategic gaps in each of these. A key focus of the strategy is to address alignment of the strategies and plans of the City with plans of
provincial and national government. A structured programme, which included “social partners” for participation accompanied the drafting of the plan and led to a GDS Summit in 2006. An institutional outcome of the GDS process was the demarcation of 12 sectors to cover the workings of the Council. These sectors define a new institutional structure for the city and have been aligned to the mayoral Committee portfolios.

The GDS has brought developmental issues into the discourse of the city. While the GDS has cascaded into city plans like the Regional Spatial Development framework, it remains to be seen whether day-to-day actions will bear out the twin concerns of growth and development. So far, its effect on the inner city is unfolding. It has been significant in the processes leading up to the recent Inner City Summit and in the development of the Draft Inner City Charter. The realisation of the GDS in the inner city will mean that the city will have to embrace those urban actors who have been excluded by previous growth oriented programmes of the city, namely residents, the poor, migrants, vulnerable groups and community organisations. How the City will forge alliances in order to realise its objectives of being pro-poor and inclusive remains to be seen.

4.3.1.4 Johannesburg Integrated Development Plan

The Johannesburg IDP (previously annual) has consistently identified the inner city as a priority area for regeneration as a prime business location. Inner city regeneration is also highlighted as a Mayoral priority within the 2003/04 IDP. The IDP links the mayoral and Joburg 2030 priorities to overall performance of the Council administration via the ‘City Scorecard’ and key performance areas (KPAs). It identified the following aspects for attention in the inner city over 2003/04:

- By-law enforcement;
- Troyeville, Malvern and Bertrams – development and implementation of intervention strategy;
- Increasing residential occupation;
- Increasing the rates base;
- Building confidence to attract investment by reducing inner city crime; and
- Promoting culture, entertainment and heritage.

The current IDP (2006-11, the first five-year IDP) is a medium-term planning tool, informed by the overarching GDS. The IDP sets out programmes and capital projects and indicates the financial resources required, as well as the organisational and institutional requirements to deliver on those programmes. Its focus is on issue based rather than area based Mayoral priorities. These are:

- Economic growth and job creation
- Health and community development
• Housing and services
• Safe, clean and green city
• Well-governed and managed city
• HIV and AIDS

The rhetoric of these priority statements is more inclusive than previous utterances on City strategy have been. For instance, economic growth is coupled with job creation and with a concern that sustainable growth should benefit everyone.

The priority concerns for the inner city, including improving urban management and tackling crime, are sub-programmes within the six mayoral priorities. This means that while the inner city remains a focus, operations within this area are potentially better coordinated, in that inner city concerns are tackled within the 12 sector plans (one for each sector area) that fit into these six mayoral priorities. Sector plans combine the long-term goals of the GDS with the IDP’s five-year objectives and five-year programmes, and develop an integrated set of strategic choices covering the short and long term.

4.3.2 Inner City Plans

Several strategies and plans specifically targeted at the inner city have been developed over the past ten years. These plans and ideas have mirrored provincial and city-wide priorities. They have spoken mostly to economic growth, hinged on boosting private investment in the inner city. Most recently however, a concern for the inclusion of the poor in benefits of inner city regeneration has emerged in policy and in strategic documents.

The physical initiatives that have flowed from these strategies have to date concentrated in the CBD of Johannesburg, and public investment in facilities and in flagship projects have not spilled over to the Hillbrow/Berea area. A number of key initiatives exist on the edge of the study area, including Constitutional Hill and the Hillbrow Hospital Precinct, both initiatives within the City Regeneration strategy. In addition the overall encouragement of private investment in building refurbishment has impacted on the area and the trend of improvements to residential buildings continues.

4.3.2.1 Golden Heartbeat of Africa Vision Statement (1997)

In mid-1997 a vision for the inner city of Johannesburg was launched. This vision saw the inner city as ‘The Golden Heartbeat of Africa’. This translates to goals of creating a dynamic city that is:

• Liveable, safe, well-managed and welcoming;
• People-centred, accessible and celebrates cultural diversity;
• A vibrant 24-hour city;
• A city for residents, workers, tourists, entrepreneurs and learners;
• Focused on the 21st Century;
• Respectful of its heritage and capitalises on its position in South Africa, Africa and the whole world;
• A truly global city; and
• The trading hub of Africa, thriving through participation, partnerships and the spirit of Ubuntu.

This vision spawned a number of strategies and plans directed at addressing the economic and spatial conditions of the inner city including:

• An Inner City Economic Development Strategy (1999)
• An Inner City Spatial Framework (1999)
• A City Centre Development Framework (2000)

The mayoral term that commenced in 2000 saw the inner city being declared a Mayoral priority. Further plans and strategies were developed including the Inner City Regeneration Strategy (2003) and an allied three-year Inner City Strategy Business Plan (2004).

4.3.2.2 Inner City Regeneration Strategy (2003)

The vision of the ICRS is for an inner city that would “raise and sustain private investment leading to a steady rise in property values”.

It is a vision premised on the need for economic progress in the inner city. It raises a concern that much of the municipal effort expended in the inner city is reactive. The strategy notes that a precondition of regeneration and redevelopment in the city centre is sustained economic growth (Johannesburg Inner City Regeneration Strategy Business Plan).

The Strategy is built on five pillars aimed at raising private investment/property values through:

• Intensive urban management, including improvements to service quality, strict enforcement of by-laws, management of taxis and informal traders, and sound credit control.
• Upgrading and maintenance of infrastructure to create an environment attractive to both residents and business.
• Support for those economic sectors that have the potential to thrive in the inner city, and encouragement of growth in those sectors.
• Discouraging “sinkholes”, meaning properties that are abandoned, overcrowded or poorly maintained and which in turn “pull down” the value of entire city blocks by discouraging investment.
• Encouraging “ripple effect” investments that can lift an entire area.

Within these, approximately 62 initiatives were identified (Jaspan and Associates 2004). The plan also identified development trends in precincts and demarcated these as focus points for investment and redevelopment. A number of large scale infrastructural and development initiatives were completed in the inner city. The energies of the private sector in leading much of this development is acknowledged and praised by the City (draft Inner City Charter 2007). The private sector role within precincts has taken the form of CIDs – geographic focus areas where property owners pay a levy to fund public services such as security, cleaning, and environmental upgrading.

The strategy is a multi-pronged urban renewal initiative, directed at encouraging the private sector to invest in the city core, which will lead “to steady rise in property values”. And: “The task of inner city renewal has been pursued with unprecedented energy by the municipality, with heavy emphasis on attracting commercial investment back into the inner city” (COHRE 2005) (See Appendix 4-26)

The initiatives undertaken as part of this ICRS have indeed contributed to a large-scale turnaround of inner city property values. Areas in which active City Improvement Districts have been developed have demonstrated considerable increases in environmental improvement and decreases in crime. Furthermore the investments in flagship projects as well as the incremental upgrading that has been encouraged in some areas have been powerful forces in catalysing investment in neighbouring buildings.

It could be argued that these various pillars could potentially benefit the study area. There are undoubtedly sinkholes that need addressing, infrastructure that needs to be upgraded and economic activity that needs support. The area might also benefit from the kind of “ripple-pond investments” that have catalysed investment in other parts of the inner city, however these investments have tended to be located on the periphery of the study area, rather than within Hillbrow/Berea. (See Appendix 4-27)

The ICRS carries with it many of the usual problems of urban renewal policies. The costs of such initiatives are typically most marked in areas with large concentrations of poor people, which can ultimately result in displacement.

The ICRS has not been universally welcomed by parties concerned with the inner city. Tanya Winkler, for example, who has studied the Hillbrow area intensively, is highly critical of the physical focus of the strategy, its tendency to neglect social dynamics, and the likelihood that such a strategy might lead to gentrification and
displacement of the poor. The COHRE report has also tabled a number of reservations about the strategy: “…the ICRS places too much emphasis and energy on cleaning out inner city slums or ‘sinkholes’ to attract urban investment and not enough on the question of how the broad mass of inner city residents, and specifically the poorer segments of the population, might benefit from large urban renewal initiatives. In contrast to the zeal with which it is enforcing health and safety bylaws, the city of Johannesburg appears unable to provide affordable housing alternatives at an adequate scale for those it evicts in the process. Indeed the most tangible effect of the regeneration strategy upon the poor of the inner city seems at this stage, to be a widespread fear of impending eviction.” (2005)

4.3.2.3 Urban Development Zone initiative (2004)

This national initiative is intended to support inner city regeneration by providing tax relief to private developers willing to invest in inner city areas. Any tax-paying, property-owning individual or entity may claim the tax benefits of the UDZ incentive. The incentive takes the form of a tax allowance covering an accelerated depreciation of investment in either refurbishment of existing property (five year depreciation) or the creation of new developments (17 year depreciation) within a designated zone in any of the 16 cities and towns earmarked for the incentive (SACN 2006). Hillbrow and Berea fall into Johannesburg’s UDZ. (See Appendix 4-28) A total of 65 projects have been initiated under the UDZ in Johannesburg (Trafalgar 2006), but it is not known how many of these are in Hillbrow/Berea. The significant administrative hurdles associated with the programme may undermine the programme.

A key effect of this incentive has been a surge in middle and upper income residential rental accommodation through building refurbishment. Generally these improvement energies have been focused on the central business district of the city.

4.3.2.4 Regional Spatial Development Framework (RSDF) for Region 8

This plan was originally approved by the Council in June 2003 but is updated on an ongoing basis. The RSDF outlines four main goals for development in Region 8:

- Create an efficient transport system.
- Create an efficient urban structure.
- Integrated and sustainable urban structure.
- Economic regeneration.
The framework recommends the:

- Creation/strengthening of key nodes or activity centres;
- Creation of a safe, user-friendly urban environment;
- Facilitation of effective integration of the built and natural environment;
- Provision of urban form that promotes a high quality environment;
- Planning for a range of commercial and residential densities;
- Application of appropriate urban design principles to provide a high quality environment;
- Continued rejuvenation of the inner city;
- Provision and incorporation of residential densities and urban design measures that promote a sense of place/secure environments;
- Creation of activity centres of specialisation;
- Fostering of business agglomeration advantages; and
- Promotion of economic diversity and access to employment and investment opportunities.

The RSDF calls for a unified land use management system. It does not detail day-to-day urban management practices, a task which, presumably, is seen as separate from strategic planning interventions. Jaspan and Associates indicate that the RSDF document is a useful overview document, but that it “does not sufficiently deal with the detail and specifics of important Inner City precincts or with the important aspects of implementation” (2004).

The RSDF is closely framed in terms of the GDS, but this suggests compliance. Day-to-day actions in the area may in fact contradict particular aspects of the GDS

A number of key interventions are recommended for the Hillbrow/Berea study area. These were developed in the Economic Regeneration plan for Hillbrow/Berea (2004) discussed below. Each intervention requires the establishment of a programme and a management plan. The identified areas of intervention include:

- Soper Street Sinkhole (Sub-Area 4) Programme
- Catherine Street Sinkhole Programme
- CCTV Camera and Law Enforcement Programme
- Better Buildings Fast Tracking Programme
- Residential Strategy & Investment Programme
- Petersen Residential Precinct
- Barnato Residential Precinct
- Technical Resources Group
- Business Spine Development
- Hillbrow-Berea Urban Design & Strategy Framework
- Markets and Hawker Programme
- Quick Link/Inner City Distribution System
• Parks upgrading and consolidation
• Cultural Arc & Enclaves
• Clarendon Circle Gateway
• Hillbrow Tower and surrounds
• Constitution Hill / King George & Klein Street

The broad actions that might be required to achieve these interventions are outlined in the RSDF. However, the plan does not commit resources or timing to these ambitious actions. It also does not prioritise the interventions. Broad statements around bad buildings, crime prevention, provision of a range of housing types etc. are not in themselves wrong. But they disguise the deep difficulties that each of these interventions face and do not address the obstacles to achieving any of these goals.

The plan does not read as a strategy that is uniquely tailored to the study area. It does not speak to the ground level complexities of urban management. The broad goals are presented along with actions as if these are readily achievable in this context. Given that the RSDF ignores why these goals have not been achieved in the past, shifting institutional constraints, and resource limitations, it is likely that these goals will remain an ever more an ambitious wish list for the study area.

4.3.2.5 Proposed Housing Action Plan for the Inner City (2007)

The City of Johannesburg outlined its housing vision and action plan for the inner city at the presentation of the Draft Inner City Charter in May 2007. The action plan is a sub-programme of the Charter and fits within the following overall Housing Vision for Johannesburg: “Adequate housing for all, which is a place to stay and a place to grow.”

According to this vision the inner city in 2030 will have a ring of mixed-income, inclusionary housing and mixed-use suburbs around the Central Business District, comprising a range of good quality and well-managed dwelling types, with associated social and public infrastructure, and strong urban management.

The main objectives of the Action Plan are:

• Housing-led regeneration of the inner city;
• Adaptive re-use and recycling of properties, and densification;
• Social transformation through mixed-income communities; and
• Continued overall increase in rates and property values.

The Housing Action Plan proposes to:
• Maintain and expand the supply of good-quality housing for very low- and medium-income households.
• Promote development of inclusive residential neighbourhoods – providing choice and connection to social, economic and educational opportunities.
• Promote opportunities for secure home ownership.
• Ensure public open spaces, social infrastructure and good public transport links.
• Ensure that there is an adequate supply of stock for individuals and families with special needs.
• Promote balanced growth and encourage mixed-use development.
• Maximise development impact by encouraging the use of small-scale contractors in housing developments and refurbishments.

4.3.2.6 Draft Inner City Charter (2007)

Ten years after the announcement of the Inner City Vision, an Inner City Summit was held in May 2007 to establish the way forward for managing the inner city. One of the objectives of the Summit was to ensure that the inner city strategy was specifically to address social concerns. For example, one of the principles in the GDS is that we must work to “proactively absorb the poor” so that the poor don’t end up living “a half-life on the periphery of the city, never able to enjoy the real opportunities and benefits of urban life”. According to the City website, “At the moment the inner city is not geared to absorb the increasing number of poor people trying to move closer to the centres of learning, economic opportunities, transport infrastructure and social infrastructure only found in dense urban settings. In line with the new GDS and IDP, a bold new agenda for the inner city is needed to ensure that many more people wanting to live and work in this central location are able to do so in dignified conditions not detrimental to their health and safety” (www.joburg.org.za).

The Draft Inner City Charter brings together the strands of these various strategies and proposes that the inner city will be a place:

• “… that will be developed in a balanced way in order to accommodate all people and all interests;
• Which remains as the business heart of Johannesburg as a whole, but which balances future commercial, retail and light manufacturing development with a large increase in residential developments;
• Which works as many other cities do elsewhere in the world as a key residential node where a diverse range of people from different income groups and backgrounds can have their residential needs met. Our Inner City will not be a dormitory for the poor, nor an exclusive enclave of loft apartments, galleries and coffee shops;
• Of first entry into Johannesburg, but also a place where people want to stay because it offers a high quality urban environment with available social and educational facilities, generous quality public open space, and ample entertainment opportunities;
• Which serves as both the key transportation transit point for the entire Gauteng global city Region, but also as a destination point where people want to walk in the streets;
• Where the prevailing urban management, safety and security concerns are a thing of the past...”

The Charter covers areas of endeavour for the City and sets out clear goals to be achieved in each sector. The various components of the Charter are:

• Urban management, safety and security
• Public spaces, arts, culture and heritage
• Economic development
• Community development
• Transportation
• Residential development

The Draft Charter has been prepared with consultation of various inner city stakeholders. Six thematic stakeholder working groups (allied to the six themes above) were formed as a way to hold dialogue with stakeholders. Each of these groups met four times before the summit.

• In Round 1, stakeholders were given an opportunity to raise their issues and concerns;
• In Round 2 the core issues were prioritised and the process towards identifying possible solutions was started;
• In Round 3 solutions were clarified and commitments agreed;
• In Round 4 commitments, responsibilities and timeframes were finalised through a process of agreeing the wording of the proposed charter.

The meetings drew in many voices, but these were mostly organised voices and groupings with which the City already enjoys a relationship. Representation by private business and property owners was high. The voices of tenants, of vulnerable groups and of other users of the inner city and of the Hillbrow/Berea study area were generally not heard. As one official pointed out, “The Summit increased our stakeholder base, but we are not nearly at public participation”.

It is intended that the Inner City Charter will feed into the new Regional Spatial Development Framework (RSDF) for Region F that is being developed by the Department of Development Planning and Urban Management.
The draft Inner City Charter indicates that urban decline has not been arrested in the inner city and that it remains manifest in: “… deteriorated public environments; poorly supported/controlled informal activities; appropriation of streets for taxi ranking; illicit building conversion to residential use; slum-lording and building hi-jacking; continued high levels of petty crime in areas not covered by CIDs; etc.” The document notes that the City’s efforts in the face of these challenges have been localised, fragmented and episodic. They have also been critiqued for not being responsive to the poor or to informal businesses.

The urban management imperatives implied in this vision statement include at least the following:

• Maintenance of building stock;
• An upgrading of building stock;
• A pro-poor residential development strategy coupled with a strategy that facilitates residential development for other income groups;
• The enforcement of by-laws;
• The development of social facilities;
• The development of educational facilities;
• The development of public open space;
• The protection of the rights and livelihood strategies of first time entrants to the city;
• Improved management of waste collection;
• Improved safety and security measures;
• Improved maintenance if public infrastructure (water and sanitation and road maintenance).

These imperatives suggest a combination of capital projects and operational and maintenance issues. Each imperative requires resources and efforts to alleviate the current institutional blockages to smooth delivery.

This vision of the inner city suggests that intensive urban management precincts are key to the success of the inner city. This will require improved waste collection, by-law enforcement, building quality, quality of public space, and safety.

The implication of applying this vision to the study area, then, is that the City would embark on a range of urban management programmes that would include both capital and operational interventions to address these issues. The draft Charter specifically notes that private investment and successful public investment is dependent on successful day-to-day management of the urban environment.

4.3.3 Proposals for the study area
The City of Johannesburg has recently commissioned two major strategies for the study area:

- The Hillbrow/Berea Regeneration Initiative (2007)

The Hillbrow/Berea Economic Regeneration Strategy (2004) was developed in line with the vision of Joburg 2030, and therefore tended to foreground economic growth and the boosting of the service sector in the study area. The strategy is based on an intensive research study of the area. It proposes 17 interventions, many of these physical, in several precinct areas. These interventions were later incorporated into the RSDF for Region 8, discussed above. The strategy offers a comprehensive planning overview of the area and offers ambitious ideas for most parts of the study area. It does not relate these to budgets or to an implementation framework that addresses the complexities of on the ground intervention in the study area.

The Hillbrow/Berea Regeneration Initiative (2007) “aims to facilitate the development of local area action plans by the community and use the planning process to build community in these areas”. It is premised on facilitating participation in the planning process “with a view to using discussion of local development issues as a way of building the community, building a sense of citizenship and encouraging civic behaviour; developing, in close consultation with the Council, a Local Area Action Plan which allocates roles and responsibilities to different stakeholders for the development of the Hillbrow/Berea as a safe and quality living environment” (RSDF).

According to the Hillbrow/Berea Regeneration initiative the key challenge for the area is “to significantly enhance the residential neighbourhood and business/recreational functions whilst still performing its absorptive function and providing for its marginalised/vulnerable inhabitants”. Five strategies, each with detailed programme proposals have been proposed for the study area:

- Adequate, well-functioning municipal infrastructure;
- Access to urban opportunities, facilities and services;
- Ability to absorb new entrants and support marginalised citizens;
- Mixed-use, high-density residential neighbourhoods;
- Local and regional business and entertainment centre/strip.

This proposed strategy departs from the earlier strategies in that it is locally focused. It is also different from its forerunners in the emphasis its places on social intervention, both at the level of investing in social facilities and in providing for social programmes in the area. These interventions are more in line with the City’s Human Development Strategy than previous utterances, which have had a strong
physical orientation. The initiative does however incorporate some physical interventions to be initiated within neighbourhood precincts.

The broad ideas in this plan align with the GDS and begin to address the social and developmental concerns as well as the economic concerns of the area. It requires an implementation framework and strong precinct management. Ground level urban management will need to accompany the broad strategic ideas put forward in the initiative.
5 ACQUISITION OF LAND AND IMPLICATIONS FOR DEMOCRATIC GOVERNANCE

This chapter examines various processes for acquiring residential property that are common in the study area:

- Buying a whole building on the market;
- Acquiring a building through the Better Buildings Programme;
- Occupying a building or hijacking a building;
- Buying a flat through the Sectional Titles Scheme;
- Renting a flat; and
- Renting a portion of a flat – a room or part of a room in a sub-tenancy arrangement.

5.1 Buying a whole building on the market

Many property transactions in the study area conform to the relatively conventional processes that occur when one property owner decides to sell his/her property to another party interested in acquiring the property. This is a process that ordinarily involves the buyer, the seller and the Municipality. The City of Johannesburg has produced a booklet “The Property Handbook” to help buyers and sellers engage with the Municipality. The booklet pays particular attention to how sellers might go about getting a clearance certificate necessary in terms of Section 118 of the Municipal Systems Act. This clearance certificate shows that all outstanding Municipal accounts have been settled. If all is well, “verification of clearance figures can take between 5-40 days to resolve”, however the booklet acknowledges that this process “could be problematic if the following information is not readily available on the Council’s records:

- There has been no valuation on the property and a query then has to be lodged with the Council’s Valuations and Assessment Rates Departments.
- Refuse charges were not raised and a query has to be lodged with Pikitup and Valuations and Assessment Rates Departments.
- Similarly, if there were no sewer/water and/or electricity charges, then Johannesburg Water and/or City Power must be contacted.” (CoJ, undated)

This means, in effect, that the private sector must follow up and make good on Council inefficiencies.

The large property owners interviewed for the purpose of this study confirmed that inefficiencies in getting clearance certificates were major impediments in the smooth transfer of properties (Adler, Miller, Barnes). According to Taffy Adler of the Johannesburg Housing Company, “blockages around clearance certificates and the sorting out of arrears are major obstacles in getting transfer. If the City has not got
its accounts up to date, it takes a long time to get the records right. Inevitably, in Hillbrow, we go for buildings where accounts are not up to date. Often that means that systems are in such a mess that they have to be sorted out manually.” Other property owners confirmed that there were serious blockages associated with the process and mentioned periods of “years” to sort out clearance certificates.

According to one large property owner, these slow processes make buildings vulnerable to invasions, and hence exacerbate the spiral of decline. The same owner also pointed out that slow Council processes also discourage small-scale entrepreneurs from entering the market because they do not have the cash flow to keep their business afloat while they wait for the bureaucracy to be resolved. This has tended to exclude emerging entrepreneurs from gaining a foothold in the area. Paul Jackson, whose TUHF assists with bridging finance for small investors, acknowledges that the racial pattern of ownership has remained relatively constant, i.e. white, although he is aware of some Ghanaians and Zimbabweans who have acquired property in the area. According to Jackson, the quantity and diversity of stock makes the area unique in that there is “a lot of room for diverse people to come to the party, part timers, full-timers, big, small…” Pressage Nyoni, speaking at the Residential Stakeholder Meeting leading up to the Inner City Summit and Charter Process, is also alert to “the demographics of ownership”, arguing that “an environment must be created to allow property portfolios to be used as instruments of Black Economic Empowerment.”

Another hurdle in the property transfer process, according to one owner, is “current occupation and use. Here the owner has to get involved in negotiations with existing tenants or even eviction. In the case of one building the process was relatively achievable: It took only two years and R1 million in legal fees.” If tenants are seen as an asset (i.e. the new owner is attracted by the fact that the building is fully let) there will be no need to evict, and the new owner will go out of his way to effect improvements (and associated rent increases) with a minimum disruption to tenants’ lives. On the other hand, if existing tenants are seen as a liability because they do not pay their rent it will be in the sellers’ or buyers’ interests to evict these tenants. This is an expensive and time-consuming process for the property owner. According to one property owner “it can take three to six months for owners to get occupation if the eviction process is unopposed. Where the eviction process is opposed the timing from initiating action to getting occupation of an empty building is 12 to 18 months. These delays are significant in the property development cycle. The delays have discouraged potential investors from buying occupied buildings.”

Residents who are evicted from buildings will be made homeless. It is unlikely that these residents will be able to find alternative accommodation in the inner city. Residents who are threatened with eviction have recourse to the Prevention of Illegal Eviction Act (discussed in detail below in Section 6.2)
It would appear from interviews with property owners undertaken in the course of this study, and from mappings prepared for the Inner City Summit, that large numbers of properties in the study area have changed hands in recent times. A large Pretoria-based property company City Properties has acquired significant holdings in the south of Hillbrow. Other large property owners, including Ithemba, Jozi, Johannesburg Housing Company, AFCO and Connaught Properties, are also active across the study area. These private sector interests may well be awaiting a sign from the CoJ of their intention to commit resources to the area before embarking on further renovations.

The net result of this bullish market (which will gain further impetus from the R100 million City-funded environmental upgrade) is likely to be further gentrification in the area and progressive squeezing out of the urban poor who had previously been able to access accommodation in the context of declining property values.

5.2 Acquiring a building through the Better Buildings Programme

The Better Buildings Programme (BBP) was a pro-active initiative of the Johannesburg Council’s Inner City Office to tackle the problem of ‘bad buildings’. Later located within the Johannesburg Property Company, the programme was aimed at attracting private sector investment to refurbish buildings that were poorly managed; inadequately maintained; or linked to huge rates and services arrears. Once transferred, these buildings were then upgraded on the understanding that they would be rented out at an affordable rate. The programme was designed to work as follows:

- Buildings in poor condition and with high arrears are identified.
- The Council facilitates the transfer of ownership to a new company willing to redevelop the building.
- Instead of paying for the building, the new owner takes over the outstanding debt, which is then discounted down to the market value of the building. The council is willing to write off up to 60% of rates and taxes to make the project viable.
- Council facilitates the transfer and makes arrangements for the repayment of the remaining debt over a period of up to ten years.
- The building is then redeveloped as affordable rental housing.

The programme was, according to Geoff Mendelowitz, former director of the BBP, an attempt to break the cycle of decline that characterised many buildings in the inner city.

Initially the programme proved to be relatively successful and facilitated the rehabilitation of 15 inner city buildings, involving the write off R250 million in debt in return for R500 million investment (Trafalgar 2006). Many of the buildings in the
programme were transferred to the larger property owners operating in the area. According to Mendelowitz, “Taffy Adler, Brian Miller of Ithemba, Renney Plitt of AFCO – they all benefited from Better Buildings Programme.”

The programme however hit a number of stumbling blocks:

- Within the Municipality;
- With the owners taking transfer; and
- With the residents occupying the ‘bad building’ slated for renovation.

Within the Municipality problematic institutional relationships emerged between the BBP and the City’s revenue department who were reluctant to write off the full amount of the accumulated debt. They wanted to write off only the value of the building. According to Mendelowitz, “It was always a fight. In revenue, officials’ mandates are to collect money: bonuses were attached to how much they could collect. They weren’t long-term visionaries. They didn’t understand that it’s no use quibbling about the money. The tensions between the revenue department and the BBP were never resolved.”

For the prospective new owners the problems of transfer and clearance certificates were even more complex than those associated with more conventional property transfers. “In a situation where we are trying to get arrears reduced, then it needs political support. First we have to go through the normal bureaucratic procedures and then the political procedures. There is no uniform policy. It has to be done on a building-by-building basis,” complained one property developer who benefited from the programme.

Existing tenants in the ‘bad buildings’ earmarked for transfer in terms of the BBP can also become a ‘problem’ for the new owner. According to one owner, “When private property owners take over buildings through the BBP, they give occupants notice to move out. The new owners/custodians of the building offer these occupants opportunities to stay other buildings temporarily (if the occupants are able to afford these), and then to move back into the refurbished building – so long as the occupants can afford the rentals and if they meet the criteria of occupancy – which varies from company to company.” In most situations, however, tenants of bad buildings are unable to afford rentals in newly refurbished buildings. Property owners then opt for another route, insisting the City deal with the existing tenants, either by negotiating with these residents or by outright eviction. Evictions pursued by the City have tended to attract more publicity than evictions initiated by private owners, given the City’s explicit commitment to pro-poor policies.

Many tenants occupying ‘bad buildings’ vigorously resist the prospect of eviction and this has given rise to a number of high-profile court cases. Stuart Wilson of the Centre for Applied Legal Studies (CALS), which lobbies on behalf of tenants faced
with eviction, argues that the evictions are the end result of a particular vision of inner city regeneration which comprises: “A bunch of private landlords with clean and shiny buildings that are world class, rented out at market rates. The City will concentrate on the physical appearance of building rather than social processes. The City can attach the property, write off arrears and hand it over to a private property developer who will make sure it looks good, that it’s orderly. You can read the exclusion of the poor from how little is said about accommodating them. We are arguing that you cannot embark on slum clearance with no plan to accommodate those who are displaced. The City’s relocation strategy must take cognisance of tenants’ poverty, whose survival is dependant on living in the inner city.”

In one building in particular, where the City has attempted to get an eviction order (San Jose – discussed below in Section 6.4) the process of transfer has taken three years so far. While this might have frustrated Brian Miller of Ithemba, who has been chosen as the City’s preferred partner in renovating the building, the existing tenants have been able to buy time in the inner city. There have, however, been considerable costs for the Municipality in terms of ongoing arrears. It is also likely that ongoing deterioration of the building will have negative impacts on the surrounding neighbourhood.

Before Mendelowitz left the programme there were plans to accelerate the BBP to R1 billion and to ramp up the provision of more affordable housing along the lines pioneered by the BBP in the Europa Hotel which offers 68 rooms at R600 a month. Mendelowitz drew up a comprehensive strategy to develop 1 000 new residential units at a total cost of R40 million, to be rolled out over a four year period. Although this report was tabled at a mayoral committee meeting in 2005, there has been no follow up since then. (See Appendix B)

The BBP programme now appears to be defunct for a number of reasons:

- Staffing changes within the Johannesburg Property Company which oversaw the BBP;
- Escalating property values in the inner city, to the extent where building values are now approaching the value of the accumulated arrears;
- Legislative uncertainty regarding the legitimacy of evictions.

There is also anecdotal evidence of political dissatisfaction that the programme was being used to lubricate the market for private sector developers who were already well represented in the city and that the programme was not really reaching the urban poor. One of the bigger landlords counters: “Beyond the benefit that the programme held for landlord, there is a concern that the failure of those programmes to release buildings onto the market has slowed down the
accommodation of the poor (and low middle income earners). The City has also not seized opportunities to use the programme to actively house poor residents.”

It would appear from more recent operations of the programme that a re-think is in progress. According to one landlord, “the BBP put out a proposal call at the end of last year for redevelopment of the Chelsea and the SA Perm buildings in Hillbrow and people responded at great time and expense, and then they withdrew... Now they've adopted the Europa Model. It is a very expensive product. It can't work even with capital inputs that they have received and the low rentals – R600-R700 a month...”

Rather than transfer 'bad buildings' to private owners, these 'bad buildings' are being held by the City for ultimate transfer to JOSHCO, a wholly owned, corporatised vehicle of the council. The advantage of this approach is that it secures public ownership of valuable inner city stock, which is in increasingly short supply. This has potential to increase the supply of affordable housing in the inner city for people unable to pay market-related rents. The possible downside is lack of capacity on the part of the City to manage Council-owned housing stock. It also remains to be seen whether the Council will be able to put the necessary management systems in place to make such developments sustainable. Short of ongoing operational subsidies, it is probable that the Council will not be able to offer rooms at less than the going rate which is R700-R800 a month.

5.3 Occupying or hijacking a building

Aside from the formalised processes of property transfer described above – which can generally be ascribed to the large property owners operating at the more formal end of the spectrum – other urban actors have devise other ways to access urban space.16

In some instances residents have come to occupy buildings through an organic evolutionary process whereby management systems within the buildings have gradually collapsed. Residents within these buildings then try – with varying degrees of success – to manage the buildings through resident committees. This process is known as building occupation (See Appendices 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 5-7). In some instances, occupants of these buildings may attempt to pay rates and

16 The City distinguishes between three different situations:
• “There are those squatting in deserted buildings with no municipal services at all, and paying no rent at all in a completely lawless situation;
• There are those in deserted buildings paying rentals to a “building hijacker”, who usually intimidates the occupants into paying, and simply pockets the money collected; and
• There are those who live in buildings operated by unscrupulous slumlords making their money by overcrowding, and paying minimal amounts to CoJ to keep services running.”

(Affordable Rental Housing through shared facilities: Document tabled at the Mayoral Committee Meeting 2005-12-01)
services costs but often, in the absence of management structures, these payments do not reach the municipality. In other instances, the residents may be unable to pay rates and service charges because they are too poor. In both cases, the council may then be alerted to these buildings by the accumulating arrears. It is often the case, however, that the council only responds when the arrears are astronomical, by which stage the cycle of decline may be irreversible. The council may be able to achieve some redress by pursuing the absentee owner for payment of the arrears or by attaching the building and organising its resale, as per the BBP.

In other instances various parties have actively seized buildings by force. This is known as building hijacking and is often ascribed to criminal elements or to 'activist tenants' and their representatives. One building owner, for example says that, “there are individuals such as Diskin [a lawyer, now dead] or Majola [in jail] who boast that they can take over buildings. There are a few activist buildings. When buildings get into distress, unscrupulous people go into the building and sabotage the building, and then they intimidate building occupants. They say ‘pay us or we will kill you’. By then the building has stopped paying the Council. But the hijackers are illegally assisted by people in Council to switch on water again. The poor then become victims of criminal elements. Organisations like CALS are, in effect, representing the criminals.”

In the case of hijacked buildings, the Council will also be alerted to the situation by accumulating arrears. Redress for the legal building owner is to regain possession of the building through eviction, a process that will simultaneously displace innocent building occupiers (who have unwittingly been caught up in processes beyond their control) and criminal building hijackers. The Council will then have to negotiate with the legal owner for repayment of arrears. Alternately where the landlord has absconded (which is often the reason why the building was vulnerable to hijacking in the first place) the Council will have to write off the arrears. The Council’s best hope is then to transfer the building to a new owner, as per the BBP. These processes are particularly problematic because building hijacking is not defined as a crime (Pernegger). According to one landlord, “the police do not act against hijackers. They say building hijacking is not a police matter. They say it is a civil matter.”

In many instances there may be considerable blurring between the two processes. When, for example are residents the victims of building abandonment? Alternatively, when are residents complicit in the criminal take-over of buildings? In some instances legitimate tenants may be the victims of unscrupulous hijackers, in other instances landlords may be the victims of defiant tenants. It is often very difficult to tease out the winners and losers. What is clear from these processes is that it is the municipality more often than not that is negatively affected by building occupation or hijacking.
Both the Council and the large formal landlords have been very vocal in their criticism of building hijacking.

According to one property owner:

“When we talk about hijacking we’re talking about a building that’s been illegally overtaken by a third party (other than the owner or tenants). Buildings become vulnerable to being taken over by criminals where they are poorly managed or have been abandoned by owners, often because conditions in the building have become dangerous and owners have been unable to extract rentals. In these circumstances the perpetrators may overpower existing security guards in the building and inform tenants that they are the new ‘owners’. They then extract rental payments from tenants, often through threatening or aggressive approaches. Where the targeted buildings are vacant, perpetrators organize invasion of the buildings by illegal occupants and charge these tenants rentals. There are few legal tools for lawful owners to employ against criminals who take over their buildings. It is difficult to open a police case as there is no offence that specifically covers taking over a building. Offences like trespassing and fraud can be employed but these don’t match the severity of illegally occupying a whole building: There is no crime called ‘hijacking of buildings’.”

A council official reiterates the point, and furthermore points to a wider nexus of criminal activities: “The taking of buildings is well planned and well executed. The ‘hijackers’ have spotters on buildings. They watch for vulnerability. Somehow they get access to account information, revenue information, and deeds office information. There have been City officials and police officers who have been complicit in these takeovers of building.”

Both the occupation and hijacking of buildings can result in considerable damage to the physical structure. “The Chelsea Hotel was trashed. All fittings had been taken out, the flooring taken out, geysers, lifts… People were even chipping away at columns to get reinforcing…” As buildings deteriorate further and further it becomes progressively more expensive to rehabilitate them. This can ultimately lead to the loss of valuable building stock. (See Appendices 5-8, 5-9, 5-10, 5-11 and 5-12, 5-13, 5-14, 5-15, 5-16, 5-17)

For the larger property owners in the area the consequence of illegal occupation of buildings in the area is the general deterioration of the neighbourhood and the associated decline in property values that inevitably flow from the collapse of building maintenance. However they are at pains to point out that it is the residents of illegally occupied buildings who suffer the most: “They are the ones subject to the control and authority of thugs who have taken over buildings and who extract payment from them while offering no services and dangerous, squalid living conditions…”
The COHRE Report takes a different view. Although the report makes no distinction between occupied or hijacked buildings, it argues that these buildings fulfil an important urban function: “Living in inner city slums is not primarily a lifestyle choice or an attempt to evade the law. It is one of the few options open to very poor people.” (2005). Furthermore, argues Wilson, the so-called concern expressed by City authorities for the residents of 'bad buildings' is often disingenuous. The buildings may not be as 'bad' as they are portrayed: “There have been no deaths in buildings deemed as 'bad buildings'. There have been fires, but hundreds more people die in shack fires.”

Occupied or hijacked buildings have a number of negative impacts for the municipality:

- As property values decline, so does the rates base.
- The hijackers or occupiers may or may not collect service charges from residents. While occupiers may have some incentive to pass these monies onto the Council to ensure continued Municipal supply, this is not the case with hijackers who are likely to pocket all the fees that they collect.
- The effects of deterioration in one building are soon externalised to adjoining buildings and to adjoining public spaces, increasing the cost of urban management.

5.4 Buying a flat through the Sectional Title Scheme

According to the STPP Report, Sectional Title was introduced in South Africa in 1971. In terms of the model each section of a multi-unit development is owned separately, while the common space is shared. In terms of the Sectional Titles Act, owners establish a Body Corporate, which elects trustees to exercise the powers vested in the Body Corporate. In most cases, trustees appoint a managing agent to assist them with managing the sectional title scheme.” (Shisaka 2006)

In order for the Body Corporate to manage common areas effectively, Sectional Title owners are required to pay levies. Thus the owner of a flat in a sectionalised building is obliged to:

- Pay for the capital costs of the flat (which often included bond repayments to a bank);
- Pay levies to the Body Corporate (which often include the cost of municipal rates and taxes); and
- Pay for the costs of municipal services (sometimes to the Body Corporate which then passes these monies onto the municipality, or sometimes directly to the municipality).
The intentions of Act were ostensibly noble. Sectional Title was supposed to:

- Stabilise those areas where large amounts of rental accommodation were concentrated by increasing the number of owner-occupiers;
- Facilitate greater access to the housing market by lowering entry levels (prospective buyers could acquire a flat, which might be cheaper than a house);
- Enhance housing choice by allowing people to own in areas where only rental stock had been available;
- Protect owners from the vagaries of the rental market; and
- Provide new owners with a tradable asset that would hopefully increase in value over time.

However, right from the beginning, these intentions were thwarted. While a number of property owners undoubtedly bought flats for their own use, invested in them and developed more permanent ties to the area, there were also large numbers of buyers who, for various reasons, landed up renting out their units either because they moved on or for speculative purposes. One former sectional title flat owner who we interviewed for the purposes describes his experience:

“I bought a flat in Hillbrow many years ago. I bought it to live in myself and then I met my wife. We bought a bigger flat in Berea. I first rented to two young Indian girls, no problems with them… They left because one was getting married. Then I rented the flat to a black guy. It was originally for himself, but then a family moved in and virtually trashed the apartment. The tenants pulled the bookshelves that I’d made off the wall. Then they used the wood to make a fire on the floor to cook when they stopped paying their electric bills and the rent. I managed to get them out with help from the Board and eventually managed to sell it to another black guy who worked for Nedbank…”

The nett result was that the nature of tenure in Hillbrow/Berea did not change significantly. The area continued to be overwhelmingly dominated by rental accommodation – albeit by rental accommodation encumbered by the complex, arms-length relationships that emerged when non-resident owners rented individual flats to tenants in terms of the Sectional Title scheme (See Section 7.3 below for more detail on the management challenges of Sectional Title blocks). Soon Sectional Title blocks were manifesting many of the same problems that characterised flat blocks owned by a single landlord. The few owner-occupiers who had chosen to live in the area but then wished to sell their flats were unable to find buyers and resorted to renting out their flats. Alternately an owner stayed on but sub-let a part/parts of the flats to a subtenant/subtenants.

Severe management problems in Sectional Title buildings have had severe impacts on the value of the flats. Yet Sectional Title units continue to be traded. The STPP
report reports the following findings from an analysis of five sectional title buildings in Hillbrow:

“Over the period between 1983 and 2005, average sale prices have dropped… Average transaction values in 2005 were under half that (in real 2005 Rands) than what they were in 1983. The average price per square metre also declined in real terms (2005 Rands) from R536 to R344 in 200517… When compared against prices in the wider Johannesburg Township, prices secured in the five buildings studied are exceptionally low, reflecting poor value retention… All buildings require remedial attention, whether in respect of safety and regulatory compliance, health and functionality, or aesthetics and resident convenience. For some, the remedial attention required suggests significant additional investment which on a cost per m2 basis equals or is greater than the most recent market price.” (Shisaka 2006)

5.4.1 Resale of Sectional Title Units

Because management systems have collapsed in many Sectional Title blocks (see 7.3 below), the buildings have in effect become “dead capital”. It is likely that individual owners will not be able to sell their units at prices they will be prepared to accept and will then be forced to rent to desperate tenants – people who themselves will be unable to pay the costs of levies. This will inevitably lead to further collapse of management systems. Some owners chose to walk away: “When the occupants didn’t pay rent and we couldn't evict them we were still liable for maintenance etc. So we decided not to pay the Body Corporate and let the Body Corporate take the property. We couldn’t sell, so we took the loss.”

5.4.2 Resale of Sectional Title Buildings

More significantly, Sectional buildings as a whole cannot be released onto the market, because they are owned by multiple owners many of whom have absconded. The result is that there is no “single intelligence” to make the decision about whether to sell or not. In the absence of this “single intelligence” these buildings are likely to drift further into decline with negative impacts for the people living in the buildings, the area as a whole, and the municipality. It is perhaps for this reason that so much attention has been focused on the eviction process in San Jose, a dilapidated Sectional Title building in Berea, not only in respect of existing residents rights’ to continued occupation, but in respect to how the Municipality can intervene in the release of problematic Sectional Title buildings.

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17 It is important to note how very low these values are relative to today’s building costs which range from R2000 to R3000 per square metre for high-rise construction. This excludes the cost of land, holding costs, finance costs, and professional fees. These buildings are in effect irreplaceable.
5.5 Renting

By far the majority of people living in Hillbrow and Berea are tenants renting various forms of accommodation. In 1993, a survey revealed that 84% of flat-dwellers were tenants rather than owner-occupiers (Morris 1999). This figure is likely to have increased, contributing to an ongoing sense of impermanence in the area given the close correlation between rental tenure and rapid residential turnover.

Residents who we interviewed used various means to access the study area as a place to live: formal, informal and even illegal means. Some people accessed their accommodation though formal means like estate agencies; others relied on social networks of friends and family who had lived in the area before; others exist illegally, where ‘tenancy’ in the area is but one aspect of their vulnerability.

The foreign nationals interviewed told stories of their experiences of entering the City through a network of relatives, distant friends or fragile networks that linked back to their country of birth. Where people arrived without any personal connection to residents in South Africa, they were likely to seek refuge with faith-based organisations.

- Kayaya Tshombe\textsuperscript{18}, for example first lived in Derby Road, Bertrams on arrival in South Africa in 2004. He was accommodated in a back room (cottage type), by his “uncle” (not related by blood) with three other young men. “We each paid R250 per month. The room had a toilet and hot water facilities inside. The room was in good condition,” says Tshombe. After seven months, Tshombe found a job at The Ridge Hotel as a security guard where he also got a room as an employment perk. The job was secured for him through his “uncle”, who knew the owner of the hotel.

- Diyoka Bakama\textsuperscript{19} is a qualified nurse who graduated from the University of Lubumbashi. He came to Yeoville two years ago with two friends from the DRC. Bakama has tried to register as a nurse in South Africa but has not yet been successful. Soon after his arrival, his friend helped him find a security job with Champion Security. Once he was employed as a guard, he left Yeoville to stay in Ponte City in Berea.

- Etienne Masengo\textsuperscript{20} came to South Africa because of “the difficult situation at home”. He came alone. Masengo had to “fight” to get transport from the DRC to Zambia. In Zambia he met a truck driver from South Africa. The driver felt sorry for him and gave him a ride into South Africa. The driver arranged for Etienne to stay with his (the driver’s) relatives in Diepsloot free of charge for five days only. Etienne stayed in a backroom in Diepsloot until his five days were up. Then, he says, “I knew I had to find my bothers.” He

\textsuperscript{18} Not his real name
\textsuperscript{19} Not his real name
\textsuperscript{20} Not his real name
asked the people of Diepsloot for assistance in finding Congolese people. “They told me to go to Berea”. They gave him transport money and showed him how to get to Berea. In Berea, Etienne found a church where he stayed for a while, “They gave me a place to stay. You can start to sleep there. And they gave me some food... Then a guy came to the church looking for people in the construction business. I had been involved in construction and went to do some work for this sub-contractor, an Australian guy. This guy took me to the site where I spoke to the boss and I worked. I am still working there. I got a work permit through that job.” He lived in the church for two weeks. “Then I put some money together with some guys from the church and we found Tygerberg.” he says referring to the Berea building in which he still lives. Masengo indicates that it is common for new arrivals to Berea and Hillbrow to share accommodation in this way. “Some people stay just because they speak the same language – they might be 8 to 10 people sharing a flat”.

South African tenants who were interviewed have also made a home for themselves in this area because it provides access to work opportunities. Several came to the city from small towns. There are stories of moving within the inner city, often in order to upgrade to better accommodation.

- Kgopotso Moonyemohonoe has lived in the area for two years and is originally from Polokwane, where she has a child. When she first arrived, she shared a flat with her uncle and four other people in Hillbrow. She is only in Johannesburg for the money. She shares her flat with her fiancé in La Rosa, a refurbished building in Berea.
- Bongani Maseko grew up in exile and came back to South Africa in 1992. Initially Bongani lived in Berea. When he married he moved to Randburg with his wife until his divorce. He then found a flat “with a couple of guys” in Berea. He has now found his “own place” at La Rosa. Bongani found out about La Rosa through an agency in Alexandra Township. He feels that it is quite easy to find a place to stay “as long as one has enough money to foot the often hefty deposit. Often the deposit price is R 4 000 or more.”

Other residents, who are poor and vulnerable, are living in much more precarious conditions. For them access to accommodation is tied in with the blurred spaces of criminality. This may occur through their vulnerability as job seekers, as accommodation seekers or both.

Babalwa, an NGO worker committed to the rehabilitation of sex workers in Hillbrow and Berea says, “As the buildings [that have been refurbished by private landlords] got renovated, vulnerable, poor people move to other buildings. Many young people who are looking for jobs or have jobs that do not pay well – these people end up living in the ‘bad buildings’. Many of these buildings house criminal activity
and some get away with paying no rent”. She says that young women who have no means of income easily end up in sex work, trapped in poor accommodation, “In many private houses, foreigners accommodate girls in order to use in a brothel. One does not need to pay a deposit; rent payments are made on a day-to-day basis. Most of the girls are born in different provinces or different African countries. They come to Johannesburg looking to better their lives. In other instances, the girls’ families have no structure, or perhaps they had been abused and they wanted to move away from that. These girls are promised jobs, better lives or greener pastures in Johannesburg. There is something we refer to as ‘the second wave’ where pimps use girls from the rural areas, who already in the sex work business – a.k.a. sub-pimps – to lure young, vulnerable rural girls who perhaps were friends of the sub-pimp into Johannesburg. Many of the girls who get lured are either abandoned or orphaned. The traffickers get paid around R5000 for two girls, which is a heck of a lot of money to these women. The girls who are lured then owe this debt to the pimp and are forced to pay that and to pay rent through sex work. At other times the girls are kept as hostages with someone on guard all the time and they may have no chance to leave. Depending on the pimp, some girls are tied up all day.”

A variety of rental options are available in the study area. A household can rent

- A flat in a building owned by a single owner – which might be subsidised via the Department of Housing’s Institutional subsidy (e.g. Lake Success, Pietersen Street Hillbrow, operated by JHC) or might not be subsidised (e.g. The Metropolitan and Plumridge owned by Ithemba Properties, La Rosa owned by Jozi Housing) (See Appendices 5-18, 5-19, 5-20, 5-21, 5-22, 5-23, 5-24, 5-25, 5-26, 5-27, 5-28)
- A room in a residential hotel (e.g. Ridge Hotel in Abel Road Berea) (See Appendices 5-29 and 5-30)
- A flat in a Sectional Title building (e.g. Grasmere in Caroline Street in Hillbrow);
- A room in a communal housing development – generally subsidised (e.g. Rondebosch in Edith Cavell Street, Hillbrow, operated by JHC);
- A room in a transitional housing development (Europa Hotel in Smit Street, Hillbrow, operated by Madulo Moho). (See Appendices 5-31, 5-32, 5-33)

These rental options would be governed by lease agreements with varying levels of formality or by common law. Although lease agreements are intended to set up fair and equitable relationships between landlord and tenant, “Landlords... do have power. Through their ability to select or reject tenants, through their ability... to set the conditions of letting, they have power over those who rent and their many individual decisions combine to produce obvious and well established differences in the social composition of neighbourhoods” (Elliot and McCrone 1975 quoted in Morris 1999).
This is borne out by local practice: one Hillbrow caretaker in charge of a particularly tightly-managed building for example ascribes her success to being very selective about her tenants: lots of policemen, nurses and “security people”. She says that when a vacancy does arise she takes pro-active steps to fill it with similar tenants, approaching the personnel departments in the nearby clinics – Brenthurst, Rand Clinic and Park Lane – to advertise the vacancy. “I don't just take anybody from off the street.” (Silverman and Le Roux 2004)

Notwithstanding these unequal power relations, there are considerable advantages for tenants in accessing land via rental tenure: The main advantages of rental tenure are:

- Rental tenure is often more affordable than ownership, particularly for people who can assemble the large amounts of capital that are required to pay for deposit on a freehold property or who may not be able to access a mortgage;
- Rental tenure may suit residents who value mobility. This is particularly significant in the context of high job insecurity, in situations where residents ‘are trying their luck’ which is often the case for new immigrants, or when residents are at a stage in their life-cycle when they want to be relatively free of encumbrances (e.g. students, young couples, the elderly).

Tenants, landlords and the Municipality might appreciate the fact that:

- There is a clear definition of roles for landlord and tenant and their identities are kept separate;
- Legal compliance issues are simple relative to other forms of tenure. Leases are governed by the common law and the Rental Housing Act, which sets out the basic norms of the relationship between landlord and tenant; and
- There is a dispute resolution forum in the form of the Rental Housing Tribunal to deal with disputes between landlords and tenants. This is a utility that no other tenure form currently has at its disposal.

The main disadvantages of rental as a tenure form are as follows:

- Rental tenure is associated with a sense of impermanence;
- Tenants have no imperative to invest their housing, and in fact may be expressly forbidden to do so in terms of their lease; and
- It is one of the less secure forms of tenure in purely legal terms. The vast majority of urban residential lease agreements in South Africa, whether written or oral, are terminable on one month’s notice. At present, the PIE Act provides some procedural protection against precipitate and arbitrary eviction. (Synconsult et al 2003)
The variety of rental typologies in the area is a consequence of the affordability constraints of the people who choose to live in the area. Households that can afford a flat – i.e. accommodation with private cooking and ablution facilities – are likely to pay from R2 000 a month in unsubsidised buildings, R1 500 in subsidised buildings, and R1 500 in Sectional Title flat blocks. Rooms (with shared ablutions) start at about R700 in subsidised schemes and R1 200 in hotels. Rooms are associated with high occupation densities and require high levels of management, mainly in respect of the shared components of the building like ablutions. Such management is often absent given the desire of landlords to make this type of accommodation more affordable. Both the increased densities and the absence of appropriate management make these buildings very vulnerable to decay.

The extent of sub-letting within all of these typologies suggests that these rents may be unaffordable to many residents in the area. A particularly onerous hurdle in the process of renting may be the relatively large deposits that tenants are obliged to pay up-front before taking occupation of their unit. In many instances this is in excess of two months rental. Another hurdle is the fact that some landlords will not rent to people who are not South African citizens.

It would appear from the interviews that we undertook for the purposes of this study that most tenants managed to acquire rental accommodation:

- Because they had heard about it from people already living in the area;
- Because they themselves had been subtenants and wanted to upgrade; or
- From advertising boards on buildings with vacancies, generally newly renovated properties, where earlier tenants had been given notice or had been evicted.

It would appear however that demand for rental accommodation considerably outstrips supply. This inhibits choice for tenants and helps landlords to push up their prices.

### 5.6 Sub-letting

Inability for a single household to afford the rent in a flat or room compels the household to seek out sub-tenants who will share the cost of the rent. Although such practices might be ascribed to tenants in buildings with less-formal management, there is evidence that this sub-letting is also being allowed by the larger building owners. The primary difference that emerges between sub-letting arrangements in tightly-managed buildings and more permissive establishments is the extent of sub-letting, and the measures taken by landlords to protect themselves from conflict between tenant and sub-tenant.
The advantage of sub-letting for the primary tenant and for the sub-tenant is that it lowers the cost of rental payments. On the other hand the tenant and sub-tenant are forced to share space, and live at close quarters with one another. This is particularly problematic if the tenant and sub-tenant are strangers. There is evidence that this is often the case. We also know that there is a particular wall in Hillbrow plastered with adverts from tenants who are looking for subtenants to share their rooms. (See Appendix 5-34).

Interviews conducted for the purposes of this study revealed the tenuous social relationships that exist when households who have no prior connection are forced to share with one another and the complex sub-tenancy arrangements that exist:

- David Masengo\(^{21}\), who hails from the DRC, shares a two-bedroom flat with three other Congolese men in Tygerberg, a large, badly-managed block of flats – “a fucked up building” in Berea. Masengo and a Congolese friend occupy one bedroom and two other Congolese friends occupy what had formerly been the lounge, with all four of them paying a total rent of R2 200 directly to the landlord. Another man, who they think is Zimbabwean, with whom they have no relationship whatsoever, occupies another room. He has his own private arrangement with the landlord. Other than greeting each other in the passage, and having to share the kitchen and bathroom, they try as hard as possible to keep out of each other’s way.

- Diyoka Bakama\(^{22}\), a Congolese national who lives in Ponte City shares his room with a fellow immigrant from the DRC in a flat that also accommodates another couple who he thinks come from Zimbabwe, and the main tenant who is “maybe Zimbabwean or Malawian or Mozambican”. Bakama, who pays R400 for his half-share of the room, pays his rent to the main tenant: “I pay him. He pays the office. The main tenant keeps some money for himself. Most people do that. Most of the main tenants – they become landlords.”

Sub-tenancy is particularly advantageous for immigrants who might not have the necessary papers to rent directly from the landlords. But there are also risks, in that sub-tenants are often subject to the arbitrary authority of the main tenant. The sub-tenant's foreign status may render him/her particularly vulnerable to exploitation. Main tenants often use the same strong-armed techniques as landlords if sub-tenants are late with their rent.

There are significant advantages for landlords from sub-letting: it makes renting more affordable which means that tenants are more likely to pay. Excessive sub-letting however can place considerable strain on building services. Generally the larger landlords, operating at the more formal end of the spectrum, are able to control the extent of sub-letting through vigorous enforcement of occupation

\(^{21}\) Not his real name
\(^{22}\) Not his real name
densities. One of the larger landlords also insists that sub-tenants pay a deposit to the building owner in the event that the sub-tenant fails to pay rent to the primary tenant. This suggests significant control by the landlord not only of the relationship between landlord and primary tenant, but of the relationship between tenant and sub-tenant. The landlord thus insures himself against possible disagreements between tenant and sub-tenant.
6 CONTINUED RIGHTS TO LAND AND IMPLICATIONS FOR DEMOCRATIC GOVERNANCE

The fundamental conflict between rights to private property\(^{23}\) and the right to housing\(^{24}\) which emerges from the Constitution cascades through much of the legislation affecting the study area. These legislative instruments include the Housing Act; The Sectional Titles Act; the Rental Tenure Act, the Prevention of Illegal Evictions and Unlawful Occupation Act (PIE), and the Building Standards Act. These laws seek to balance the rights of property owners, residents and the State.

However, the existence of these laws and regulations should not distract from various other practices which impact on residents’ continued rights to space. Lack of access to the law; the efficiency of some extra-legal processes; and the high costs of compliance are serious incentives for urban actors to circumvent the law or to ignore it completely. The result is that many urban actors tend to rely on extra-legal methods in their interactions with each other. On the part of residents these may involve occupation. On the part of landlords, these might include lock-outs, attaching tenants’ goods and other possibly more violent mechanisms. According to Kayaya Tshombe\(^{25}\), for example, an asylum seeker from the DRC who is currently living in the Ridge Hotel in Berea, failure to pay rent on time means that, “They throw your things... You must pay on the first. If you are late with your money, they don’t even give you a minute, not one second. They put your things outside on the street. Then they give you a fine. If you pay the fine of R200 and the rent they let you back inside.”

The finely crafted provisions of the Rental Housing Act, the Prevention of Illegal Evictions Act and the Housing Act will therefore tend to be irrelevant to the daily lives of many Hillbrow/Berea residents.

While there are a whole host of laws impacting on housing generally, this section focuses on those regulations which impact specifically on continued rights to land. This section explores the rights and obligations pertaining to rental tenure generally, one piece of legislation intended to prevent eviction (the PIE Act); one piece of legislation which has been use to effect eviction (the National Building Standards Act); and how the eviction process is being played out with respect to a particular building in the study area.

\(^{23}\) Chapter 2, Section 25 of the Constitution
\(^{24}\) Chapter 2, Section 26 of the Constitution
\(^{25}\) Not his real name
6.1 Rental tenure

The reciprocal rights and duties of landlords and tenants are governed by a number of instruments: the common law\(^\text{26}\), The Rental Housing Act, and house rules which tenants agree to when contracting with their landlords. The Rental Housing Act regulates the relationship between landlords and tenants at all stages of that relationship, i.e., before a lease agreement is entered into, during the currency of the lease, and after expiry of the lease; and provides for the settlement of landlord/tenant disputes through the Rental Housing Tribunal.

According to a common law lease a landlord is obliged to:

- Provide the tenant with use, occupation and enjoyment of the dwelling;
- Undertake necessary repairs to the dwelling;
- Pay taxes raised against the property;
- Allow the tenant to sublet; and
- Stipulate that the use and enjoyment is temporary.

By reducing the lease agreement to writing, landlords in effect contract out of the common law. Often landlords do this to set minimum periods for the lease (often six months) or contract to do only the absolute minimum in terms of maintenance.

The Rental Housing Act entrenches many of these aspects of the common law and provides for a rent Tribunal to adjudicate disputes between landlord and tenant. The RHA tends to place additional obligations on landlords over and above those obligations in the common law including the following:

- A lease agreement must be reduced to writing if requested by a tenant;
- A landlord must give a tenant two months notice before increasing the rent so long as these are not deemed to be exploitative by the Rental Tribunal;
- Deposits received by landlords must be kept in interest bearing accounts and these must be refunded after reasonable amounts have been deducted to repair any damage caused by the tenant;
- Landlords are obliged to make house rules; and most significantly
- Should a tenant declare a dispute with the Tribunal, “Section 13(7) provides that from the date of a complaint having been lodged with the Tribunal, until the Tribunal has made a ruling or a period of three months has elapsed whichever is the earlier, the landlord shall not evict the tenant provided the tenant is paying the rental applicable prior to the complaint being lodged and the landlord must effect the necessary maintenance.” (Sigodi Marah Martin et al 2001)

\(^{26}\) In general, the common law applies where there is no written agreement.
The application of the RHA has been relatively uncontroversial largely because although the RHA allows a landlord to repossess rental housing property, it does not govern the eviction of tenants. Eviction is currently regulated by the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (‘the PIE Act’) discussed below.

6.2 The PIE Act

According to the COHRE Report, the PIE Act is intended to provide protection to vulnerable groups unlawfully occupying land, and who may not have anywhere else to live. The PIE Act ascribes various responsibilities to the owner seeking an eviction order. The owner must follow due process by giving both the “unlawful occupiers” and the municipality written notice of the eviction proceedings, setting out why the eviction is being sought and giving the date and time when the eviction proceedings will be heard. The Act also requires that the Court be sensitive to the rights of vulnerable groups including women-headed households, children and the elderly. Also, “if the unlawful occupier(s) have been in occupation of the property for longer than six months, the Act requires that the court must consider whether land is available, or can reasonably be made available, by the owner or local municipality to which the unlawful occupier(s) can be relocated.” (COHRE 2005) If all of these conditions have been met, to court will determine an appropriate date for the eviction.

There are also provisions for urgent evictions:

- If there is danger of damage to persons or property if the unlawful occupants are not evicted immediately;
- If the likely hardship for the owner exceeds the likely hardship for the unlawful occupier; and
- There is no other effective remedy for the problem the owner seeks to cure by eviction.

It is also possible for the State to evict if it is in the public interest to do so. “The Act defines public interest explicitly to include the interests of health and safety of those occupying land and/or the general public” (COHRE 2005). In the case of an eviction application made by the State a Court must consider the length of stay of the unlawful occupier and the availability of suitable alternative accommodation.

According to COHRE this represents “a carefully crafted balance between the need to allow municipalities to manage land and building stock, and to ensure the maintenance of a basic level of health and safety in their jurisdiction, and the need

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27 The landlord’s right to repossess rental housing property after obtaining a court order is expressly recognized in section 4(5)(d)(ii) of the RHA. A dispute over the amount of rental or any other issue may, however, delay the bringing of proceedings for eviction for up to three months (section 13(7) of the RHA).
to protect South Africa’s large numbers of informal settlers from repeated or arbitrary eviction without provision of alternative accommodation or land…” (COHRE 2005). The COHRE Report acknowledges that the PIE Act in effect affords strong protection for unlawful occupiers. “The PIE Act [is] generally friendly to the urban poor, and does provide protection against eviction, especially where there are a large number of people under threat and the evicting authority is an organ of state.” (COHRE 2005)

Under these circumstances it is not surprising that property owners have been very vocal in objecting to the provisions of the PIE Act. It is “a badly drafted piece of legislation… This Act was originally drafted to protect farmlands from illegal invasion. It was quickly seen by [human rights] lawyers to be applicable to urban rental conditions”. However unlawful occupation does indeed create significant problems for property owners where landlords are unable to extract payments for rates and services. According to one landlord, “There are cases where the bills have run up to R3-R4 million. Landlords have applied to the Municipality to cut services, and the Municipality has refused. But the Municipality is suing the landlords for the payment of services… The problem for landlords is that they are still responsible for the payment of service charges to the Municipality.”

The PIE Act has had a profound impact on the rental housing market, as it increased both the time and cost of obtaining an eviction order. At present the PIE Act is currently being amended. Proposed amendments will make it a criminal offence to encourage people not to pay rent; landlords will now no longer need to pay legal fees in order to evict defaulting tenants; and the amendment will exclude from the ambit of the Act tenants who refuse to vacate land after their leases are cancelled. The Act will only cover situations where people unlawfully invade land without the prior consent of the landowner or person in charge of land as opposed to ‘legitimate’ tenants.

6.3 The National Building Regulations and Standards Act

The National Building Regulations and Standards Act (1977) sets out the various duties of municipalities and other organs of state to regulate the standard of building stock in their jurisdiction. Section 12 of The Act, however, empowers a municipality to order owners of unsafe or dilapidated buildings, or buildings in a state of disrepair, or buildings showing signs of being in a state of disrepair, to restore the buildings in question to an acceptable standard within a specified period. Section 12 (4) (b) of the Act further authorises a municipality to order the occupiers to vacate any building that it considers unsafe or unhealthy.

According to the COHRE Report, it is this piece of legislation rather than the PIE Act that the City has used in order to effect an eviction. But this, according to the COHRE Report is problematic. The COHRE Report posits that this is because of
the strong protections afforded unlawful occupiers under the PIE Act, especially as they relate to the duty of the Municipality to provide alternative accommodation. For COHRE, this represents an attempt by the City to circumvent the PIE Act. The COHRE Report thus argues that the City has tended to use the Building Standards Act and other regulations opportunistically,

“… to clear inner city slums or other buildings which, while not slums, are run down and home to large numbers of poor people. No alternative accommodation is provided, and neither the Building Standards Act, the Health Act, nor the fire and Accommodation Establishment by-laws, require a court to consider the life circumstances of anyone against whom eviction proceedings have been instituted under the Act… It may well be that residents of unsafe buildings own the units they live in, or occupy the building with the consent of the owner, and may therefore not be entitled to the procedural protections provided by the PIE Act… However, the social and economic dynamics of buildings likely to attract an eviction application under Section 12 of the Building Standards Act are such that they are often home to a large number of unlawful occupiers, who should be entitled to the full protection of the PIE Act… Even lawful occupiers of unsafe buildings are often unlikely to be able to re-accommodate themselves in the event of an eviction. It would therefore be perverse to deny them the procedural protections of the PIE Act.” (COHRE 2005)

In this respect the actions of the City can be interpreted as anti-poor.

According to Stuart Wilson the City’s by-laws are also insensitive to the needs of the urban poor: “The City is using a set of by-laws that were revised in late 1990s. But they look as if they were revised in the 1960s. There is no sense that this is a Municipality that is intent on housing the poor…Non-compliance is seen as an enforcement problem, rather than a problem of who is living in the building. We say that Council must come up with a new set of by-laws that acknowledge today’s realities in the inner city.”

6.4 Evictions

Both the PIE Act and the Building Standards Act make provision for evictions from buildings, and evictions have been effected in response to applications from both private landlords and the City (See Appendix 6-1).

Private landlords generally have been relatively successful in evicting tenants where they can prove obvious cases of default. These landlords however complain about the length of time it takes, the cost, and the uncertain nature of the outcome. One of the large property owners describes the process as follows:

28 Such as Municipal Fire and Accommodation Establishment by-laws and the Health Act (no. 63 of 1977)
“Eviction is complex. In any legal process you have to put a name on the court action. But we don’t know the names of the occupants and we cannot get those names... This requires Court permission for a blanket eviction order... The magistrate may ask what provision the owner has made for accommodation of the occupants. We understand that this is important, but it is not our responsibility. That responsibility lies with the Municipality. We argue that the occupants are not lawful tenants of the property. There is some tension as this view is contested. Human rights lawyers have argued in favour of building owners taking responsibility for the accommodation of occupants... This process is not predictable as some magistrates lean towards protecting the rights of occupants and others towards protecting rights of property owners...

If the application is successful, the owner then serves eviction notices on the tenants and the police and Sheriff of the Courts carry out the eviction. These institutions employ private security firms – the so-called ‘Red Ants’ – at the expense of the building owners. The cost of eviction is approximately R5 000 per flat. If the process is unopposed it can take three to six months for owners to get occupation of an empty building. Where the eviction process is opposed the timing from initiating action to getting occupation of an empty building is 12-18 months. These delays are significant in the property development cycle. They discourage potential investors from buying occupied buildings.”

It has been even more difficult for the City to pursue evictions largely because of the ambivalent role of the Municipality within the context of a neo-liberal State. It is for this reason that the courts have been used to play out the fundamental conflicts between

- Inner city renewal which often involves gentrification versus the continued rights of the poor to housing, particularly housing that affords them access to job opportunities;
- The City’s support for private property development versus its stated commitment to the poor.

The ongoing conflicts around evictions, around the rights of the poor, and around the duties of the Municipality are clearly evident from the various attempts that have been made by the City to evict approximately 300 residents from San Jose, a problematic sectional title building in Berea. (See Appendix 6-2)

The City gave notice of eviction to the residents under the National Building Regulations and Building Standards Act, which enables the City to prevent people under its jurisdiction from living in dangerous conditions. The City argued that the evictions would promote public health in the area and reverse the inner-city decay it was trying to stop with its inner-city regeneration strategy. The occupiers, however,
did not agree that the hazards in the buildings were as great as the City claimed. They also argued that their right to adequate housing under the Constitution was being violated. (M&G Online March 2007)

Initially the Johannesburg High Court found in favour of the residents. Judge Jajbhay, in handing down judgement preventing the City from evicting the residents, said that the government was obliged to help poor people living in inhuman conditions in the inner city and that the City could not evict without providing alternative accommodation. Jajbhay said, “The sole criteria for living in the inner city should not depend on affordability or the size of one’s pocket”. The judgement argued that the City was obliged to maintain health standards but not in a way that deprived people of their homes (Trafalgar 2006). Furthermore Jajbhay ruled that the City would first have to provide alternative city-centre accommodation for the people it intended evicting.

This judgement immediately met with considerable resistance from organised property owners who argued that it would hamper regeneration. Brian Miller of POMA is quoted in the Trafalgar Property Report as saying: “Before the judgement we were able to evict people. We were concerned about people living in buildings that aren’t fit. All the judgement has done is allow people to act with impunity” (Trafalgar 2006). Landlords and owners expressed the belief that criminal elements among squatters abuse the PIE Act and then “place a burden on other paying residents” (Trafalgar 2006).

The City also decided to appeal against the judgement and in an Appeal Court (SCA) application brought by the City of Johannesburg, Judge Louis Harms reversed the decision of Judge Jajbhay. Handing down judgement on 26 March 2007, Harms said he found the City’s notice to vacate due to fire and health hazards not to be unconstitutional or unlawful. “Moreover, the obligation of the occupiers to comply with that order is not dependent upon their being provided with alternative accommodation.” The SCA, however, ordered the city to offer those evicted relocation to a temporary settlement area, which would provide basic sanitation, water and refuse services. The SCA gave the residents one month to vacate the buildings, otherwise the Sheriff would be permitted to remove all persons from the properties and perform “such steps as may be necessary” to prevent the reoccupation of the buildings.

The City of Johannesburg welcomed the judgement. “The SCA judgement augurs well for the City’s programmes of urban regeneration … the City is conscious of the housing needs of the people of Johannesburg and will, through its housing policies, remain committed to catering for the housing needs of its residents, especially the poor,” City spokesperson Nthathise Modingoane said in a statement. (M&G Online 26 March 2007)
However, the Centre for Applied Legal Studies (CALS), which represents the interests of residents facing eviction was distressed with this finding: “We are concerned that the judgment appears to condone the City of Johannesburg’s decision to exclude the poor from its inner-city regeneration strategy.” *(M&G Online 26 March 2007)* CALS, on behalf of the residents, now intends taking the case to the Constitutional Court.

Brian Miller of Ithemba has a particular interest in seeing that the eviction is carried out given that he is the City’s preferred partner for the renovation of San Jose and that the dilapidated building is situated in close proximity to his newly renovated investments. He is frustrated about what he calls the “ping-pong decisions of the courts… We can’t clear the building.”
7 REGULATION OF THE USE OF LAND AND THE DEVELOPMENT OF LAND AND IMPLICATIONS FOR DEMOCRATIC GOVERNANCE

Land management is a mechanism for facilitating and regulating a complex lattice of relationships among diverse urban actors in a particular place. In the Hillbrow/Berea area these actors include the Municipality, the property owners, the residents, the traders and a host of other actors who pass through the area on a daily basis – taxi drivers, school children, shoppers. While this list of urban actors is by no means comprehensive, the landscape is further complicated by the fact that each set of actors is by no means homogenous. Various departmental structures within the Municipality, for example, have conflicting views about the nature of land management challenges in the area. This is equally so for the diverse property owners in the area, which range from individuals who posses a single flat in a decaying Sectional Title building to large companies which control five or six blocks of flats. Residents similarly range from middle class gentrifiers to impoverished foreign nationals. While cognisant of these complexities, the chapter presents a broad overview of three main urban actors in the area. It focuses on the roles of:

- The Municipality;
- The property owners;
- The Body Corporates or managing agents of sectional title buildings; and
- The residents.

These discussions tend to focus on residential sector as residential buildings tend to dominate the study area. However the management of other land uses is addressed in passing.

7.1 The Municipality

This section provides a brief overview of the various mechanisms used by the municipality to manage land in the study area:

- Town Planning and Townships Ordinance 15 of 1986
- The Gauteng Planning and Development Act 3 of 2003
- The Development Facilitation Act No. 67 of 1995
- Johannesburg Town Planning Scheme, 1979
- Johannesburg City Council By-Laws

This is followed by a discussion of how these have been applied in the study area.

7.1.1 Land Management Tools

The Town Planning and Townships Ordinance 15 of 1986 creates the mechanisms to establish Townships Boards, Compensation Courts and Town Planning...
Schemes. It sets out what should be contained in these Schemes. The Ordinance also outlines procedures to be followed for various applications. Times for objections, comments, and procedures to hear objectors and process applications are specified. Furthermore, it provides for appeal procedures. Jaspan and Associates (2004) note that an appeal can be submitted as long as 56 days after a Council has taken a negative decision or 56 days after proclamation, resulting in considerable development delays. The Ordinance also establishes principle of levy payments. It has been recommended that these levies be reviewed by the City to encourage development in particular areas (Jaspan and Ass, 2004).

The Gauteng Planning and Development Act 3 of 2003 will replace most other town planning legislation with the possible exception of the DFA, once the regulations of the Act are promulgated. The Act seeks to create “a single system of development, planning and land management in the Province; to set out principles for planning and development; establish planning bodies; provide for appeals; create frameworks for the preparation of development plans; provide for the creation of zoning schemes; create unified procedures for applications; repeal certain existing legislation, and provide for general matters such as enforcement procedures”. The legislation provides the following initiatives:

- The principles of development are based on the Development Facilitation Act (DFA). Strict procedures for development planning and policy planning are set out.
- It calls for a single, standardised Town Planning Scheme in cities.
- It provides for Provincial Authorities and Councils to prepare integrated development plans, spatial development frameworks and land development policies.
- It allows for one type of development application for any purposes i.e. rezoning, consents, subdivision, consolidations, removal of restrictions, township establishment, road closures, etc.
- It provides for a tribunal made up of property professionals not politicians.

Jaspan and Associates indicate that there are significant problems with the Act. These include:

- The acquisition of land development rights remains a costly procedure, inaccessible to the poor.
- Overall development procedures have not been simplified by the legislation.
- The consolidation of town planning schemes could result in loss of rights on certain properties.
- The Environmental Conservation Act and the Department of Agriculture, Conservation and the Environment (DACE) remain able to slow down decisions and procedures in terms of their rights to take decisions over development.
• There is no synergy between the respective authorities such as the Provincial Heritages Resources Authority of Gauteng (PHRAG) who oversee historical buildings and conservation areas and the Council.

The Development Facilitation Act No. 67 of 1995 (DFA) introduced extraordinary measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land. It put in place a normative framework of general principles in terms of which all development work should be done. It established the basis for land development objectives. It also provided for nationally uniform procedures for the subdivision and development of land. The Act is often used as a speedier process than Ordinance/Removal of Restrictions procedures and is often used for changes of zoning.

The Johannesburg Town Planning Scheme of 1979 is based on a colonial system of planning and focuses on development control rather than performance criteria as a basis to adjudicate development. Jaspan and Associates argue that “in general… it does not in anyway encourage or incentivise development”.

Jaspan and Associates raise a number of concerns regarding the application of the Scheme in the inner city:

• The document is too complex;
• Procedures are time consuming and costly;
• It is inflexible;
• It is not user friendly enough to facilitate projects for inner city regeneration;
• It is outdated;
• It requires complex procedures of rezoning for relatively straightforward adjustments to zoning or density;
• It does not use performance criteria or standards recommended by later legislation such as the DFA.

Commenting on the application of the Town Planning Schemes in Hillbrow/Berea, Jaspan and Associates note that the rights in the area are permissive enough to cater for a wide range of uses in the area but do not cater for the actual uses. “This area (Sub-Area 16 of the RSDF) has seen rapid decline, and despite the existing housing stock and buildings, requires enormous effort to restore the mixed use area. With a preponderance of ‘Residential 4’, ‘Business 1’, ‘Business 4’ and ‘Public Open Space’ zoning, the zoning is broad enough to cover a range of development options but also lacks the flexibility to cover emergent uses such as tuck shops, telephone kiosks, etc. to resume the vibrant secure, clean environmental conditions of the past” (Jaspan and Associates 2004).

Various recommendations have been made to shift the Scheme to a more user friendly, performance based approach.
The Johannesburg By-Laws are a response to the Constitution and the Local Government Transition Act 209 of 1993, which prescribe the functions and powers of Municipalities. These pieces of legislation give municipalities the right, *inter alia*, to make a set of by-laws for the effective administration of the matters that it has the right to administer (Memeza).

These by-laws are intended to be implemented by the Johannesburg Metro Police Department. Memeza notes that “Johannesburg’s decision to establish a Metro Police Service came at a time [towards the end of 2000] when the Metro Council was experiencing major problems with the enforcement of by-laws”. At that stage coordination was one of the key problems. There were approximately 16 law enforcement agencies/units operating in the Metro and Local Councils in Greater Johannesburg. Each substructure and the Metropolitan authority each had their own by-laws, and enforced these to various degrees, in the areas of electricity, fire, health, housing, inner city, licensing, parks, planning, roads and storm water, security, street trading, traffic, transport, treasury, water and waste.

A major enforcement strategy was launched for the inner city as the decline of the area was deemed to be linked to the lack of law enforcement. This ‘Mayivuke’ programme was the precursor of the Johannesburg inner city enforcement strategy.

Inner city gentrification proposals were based on notions of creating pockets of excellence in the inner city through by-law enforcement. Such law enforcement, centred in the inner city office, was to be carried out in partnership with a range of role players including various Council departments, Gauteng Housing department, the SAPS and the Central Johannesburg Partnership (CJP). The strategy is divided into two groups of action. The first group is called the ‘streets group’ and consists of Traffic, Waste Management, Street Trading, Gauteng Housing department and SAPS. These entities focus on creating cleaner, safer streets in two areas in the inner city namely Joubert Park and the area around Kotze Street. This first group deals with parking violations, abandoned vehicles, littering, illegal dumping, illegal advertising, illegal street trading, searching of people and so on (Memeza).

The second group – the so-called ‘Buildings’ group focuses on buildings that have been designated as problematic either because they are in a bad state, overcrowded or fail to comply with building regulations. This group consists of fire, health, building control, land use enforcement, Gauteng housing department and SAPS. The expected outcomes to this exercise are to ensure that the owner/occupant/agent complies with the notice and restores the building. Failure to comply would result in the building being attached or made available for redevelopment. Lastly if the building is in a very bad state then council will demolish it.
The Draft Inner City Regeneration Charter acknowledges that in the past the City did not have an integrated and consistent approach to management and maintenance of public space. The charter links urban management with safety and security echoing previous visions that connect urban management with law enforcement. The charter cites management problems including “poorly capacitated systems of by-law enforcement; inadequate everyday service coordination, a lack of responsive sense to a range of public nuisances, and an inability to mount creative responses to underlying problems that give rise to grimy and disorderly urban spaces…”(City of Johannesburg 2007). This document also raises concerns about the ad hoc nature of interventions around land management, which took the form of periodic raids and campaigns.

Those campaigns mustered the forces of several departments and entities in a blitz operation that combined law enforcement issues around land management with criminal law enforcement procedures. The raids that are focused on illegal buildings, for instance, combined the forces of SAPS, the Department of Home Affairs and Council Department and entities. Several land management and crime related issues are thus targeted simultaneously. The coordination is necessary as neither the police nor the Municipality can act unilaterally to intervene in an illegal activity that would deal with both the perpetrator and the place of illegal activity. A combined strategy that could tackle individuals and property was therefore adopted. Officials say that this approach was mutually beneficial to the law enforcement arms of the various State agencies involved. Martin New, who was involved in many of these operations, explained that “there was a need to close down a number of hotels (which were centres of drug dealing and crime). On their own SAPS couldn’t close the down the hotel. Home Affairs couldn’t close down the hotel. Then we came to see if there were town planning contraventions”. He adds that although raids may have discouraged illegal activity in the short-term, they ultimately proved to be ineffective because they were not coupled with an ongoing management and monitoring programme. The result is that repeated raids of the same sites are required: “We have raided some places like the Sands Hotel in Hillbrow 14 times. The Sands Hotel is the Pick ‘n Pay of drugs. The raids were not effective over the long term. SAPS might arrest criminals and illegals, but then two weeks later you’d see the same faces. That is why only addressing the crime is not sufficient. It has to be multi-pronged. We thus shifted our strategy and target several issues at the same time. Our raids now include SAPS, Home Affairs, Joburg Water, Electricity, JMPD, Lindele, etc”.

7.1.2. Relationships between departments within the City

The cry that “the one hand [of the Municipality] does not know what the other hand is doing” was expressed by several private individuals, but also by a number of Municipal officials interviewed for this study. The problem of poor communication
across departments or within departments within the Municipality is not however merely a problem of coordination.

The issue also goes to mandates and lines of authority in the complex organisation of land management functions within the Municipality. Both the interviews and desktop research revealed that multiple units within the Council are responsible for different aspects of a single land management problem. This is illustrated in the following two examples.

While Municipal by-laws prohibit illegal dumping, the responsibility for addressing illegally dumped litter is not straightforward. Pikitup, which is responsible for solid waste removal, has a responsibility to clear the streets of Hillbrow and Berea and does so on a daily basis. However, Pikitup officials note that a substantial amount of littering in the study area occurs in those lanes which have been privatised by adjoining owners (see Appendix 7-2), in the private yards of buildings and on vacant private property. None of these sites can be accessed by Pikitup without the instruction of the Environmental Health Department of the City. That department is responsible for monitoring the illegal dumping on private property, for issuing instructions to owners to clean their sites and for instructing Pikitup to clear the sites at the expense of the Department of Environmental Health (which then recoups the costs from the owners concerned). No mechanisms exist to coordinate these processes in a responsive, proactive or streamlined way. The monitoring calendar or resources of the Department of Environmental Health are not coordinated with Pikitup service. The clearing of private property is undertaken in reaction to complaints. This makes the clearing of private property cumbersome and ad hoc, rather than a routine activity in the study area. (Van Niekerk)

While Municipal responsibilities are therefore heavily contingent on the clear separation of public and private property, rats, cockroaches and disease vectors have no respect for such boundaries. Carien Engelbrecht confirms that cockroaches are a big problem in the area. This suggests that a comprehensive approach to the removal of solid waste is required. (See Appendix 7-3)

The problem of land management and land-use control is also beset by unclear lines of responsibility ill-defined job descriptions and 'silo thinking'. Within the Planning Department, for instance, responsibility for land use management and land use control are very distinct. However, their impact to the naked eye in Hillbrow or Berea is often cojoined. Land use management officials are responsible for town planning applications in the area and will respond to applications received for rezoning or consent use. This function thus deals with official changes in land use. Much of the land use alterations in the area are however not made official. Still others fall strictly within the primary property rights of the sites but may nevertheless be undesirable uses in the area. ‘Land use management’ thus interfaces very little with the study area and is a wholly reactive function, responding to those few
property owners who feel obliged to make formal applications. The interface of the 'land use management' unit of the Municipality with Hillbrow and Berea is confined to a very small number of properties. It is only those properties on which legal routes are being sought to change land use rights. There are however large numbers of other more- and less-legal land use alterations in the area, all of which impact on city form, infrastructure, socio-spatial conditions and on the land management and maintenance functions of the City, which never cross the desks of land-use management officials. These changes include altered residential densities, the subdivision of retail space, informal trading, the establishment of Internet cafes, spaza shops, liquor outlets, taverns and other non-residential uses in basements, at ground floor and elsewhere in buildings. 'Land use management' makes decisions on the basis of the RSDF and policy initiatives within the city. Such initiatives include a permissive approach to spaza shops and other uses that are seen to create employment in the study area. (Nel and Lentsoane)

'Land use control', on the other hand, responds in a law enforcement capacity to illegal uses, usually on the basis of complaints. Land use control is not policy driven but by-law driven. It arguably has more contact with the fabric of the study area, but has no forward planning or policy link to its function. Both activities are reactive, although land use control is closely linked with the building control function of JPMD, whose officers are tasked with patrolling and reporting on illegal land uses.

The separation of functions in town planning, between strategic planning and use control have already been outlined. However the implementation of initiatives that are proposed in strategic planning exercises is carried out by yet another entity, namely the Johannesburg Development Agency (JDA). The JDA’s physical focus in projects and its business approach suit quick-fix turnkey projects. However the JDA is not an operational entity. Projects are thus handed over to City departments or to entities such as the JPC for ongoing management. There are various complexities in these relationships including the problem of budgeting ahead of time for ongoing management of projects that departments themselves have not developed. The aftercare on projects – particularly non-physical ones – requires championing. These arrangements mean that different champions (where they exist) are responsible for strategising, for implementation and for ensuring the ongoing sustainability of initiatives. The potential urban management problems, which are centred on the long-term management phase of projects, are substantial.

Veratt et al find that there are competing philosophies about urban management in the inner city. The multiple agendas of the many strategic plans that presume to lead the way forward for urban management in this area are the backdrop for this confusion. But the problem is not merely one of poorly worded or contradictory statements. The issue is that Johannesburg faces the very real and conflicting demands of promoting growth and all the formalisation that such an ambition requires, while simultaneously promoting pro-poor development. Urban
management is caught at the crossroads of these agendas. The very act of regularising informal traders for example may help to ‘clear’ an area and support private investment in that zone, but the same time may significantly undermine the livelihoods of traders and the State’s concern for growing the second economy.

Within a single interview, we found one official who took a lenient attitude to informal traders or illegal foreign nationals while discussing social needs, poverty and vulnerability, but then called for the policing and regulation of informal trading activity in the interests of health or cleanliness.

For officials it is difficult to digest and process the shifting philosophies in the City. The strategic planner for Hillbrow and Berea indicates that much of her time is devoted to reworking strategic documents to bring them in line with new policies and positions. Other officials who are involved in day-to-day operations within the Municipality said in interviews that these shifting messages are confusing. There has been so much institutional and ideological change in the City that it is unclear which philosophy should inform action.

7.1.3 Relationships between the City and other spheres of government

A split of functions between spheres of government is implicated in one of the most problematic of land uses in the study area: liquor outlets. Liquor licenses are granted by provincial government. Municipal officials, social organisations and property owners complain that provincial government is too permissive in granting such licenses and that these are often granted in contravention of the town planning rights of properties. This provincial-level licensing function seats a critical land use management decision at too far a distance from the law enforcement and land use management functions of the study area.

7.1.4 The City and service delivery

A sketch of the services of Pikitup in Hillbrow and Berea provides some insight to the challenges of resource constraints, limitations of power, public behaviour issues and the personal safety concerns faced by agencies taking on these functions.

Johan van Niekerk, operational manager for Hillbrow and Berea for Pikitup, says that Pikitup is the ‘soft belly’ of the City. “If the mayor goes on a tour, we are the ones standing in front of the bus trying to explain”. He says that while a lot of attention is paid to keeping the CBD clean because this part of the inner city is “in the political eye”, other parts of the inner receive less. While Pikitup is active 24 hours a day in the central CBD area, Hillbrow is cleaned once a day – every night, seven days a week. In addition, bins from private properties are cleared twice a week in Hillbrow and Berea. According to Van Niekerk, the sheer scale of litter
means that once daily cleaning of the public space is not sufficient. “This is a problem of resources and priorities,” says van Niekerk. “If we had more resources we could give the area more attention”

Public behaviour around litter is a huge challenge. Van Niekerk says that shop owners pay for fewer bins than they need, and then dump their excess waste in or around public bins. Private buildings often do the same thing. Because of this problem Pikitup ironically provides relatively few bins (fewer than the area appears to need) in public spaces and is very selective about the spacing of those bins.

Van Niekerk described the job of Pikitup as “the worst in the city”. He described how trucks move down the length of a street and then return along the opposite side and “by the time the truck turns back to clear the opposite side, the side they have cleaned is littered” Van Niekerk says that hawkers present a big problem on sidewalks because they leave waste vegetables on the sidewalk. (See Appendix 7-1)

The problem of illegal dumping is widespread: “Our other big challenge is illegal dumping – that is anything that is being put on the pavement that is not contained in a wheelie bin. We pick up boxes, fridges, beds. You name it we pick it up. All of them are doing it – shopkeepers, tenants, hawkers. Shop owners dump their stuff onto the pavement. Our domestic customers also take chances, putting anything on the pavement. People don’t want to pay for the bins. They open a window and a Checkers packet comes down.” People in the area would rather pay for two bins than three, and then dump the excess on the pavement. There is therefore a financial incentive for bad behaviour.

Pikitup does not routinely clear private property or closed off lanes as discussed above. But even in public spaces there is no guarantee that the service will be undertaken in all area. “There are some lanes and areas of Hillbrow and Berea that are so dark that it is dangerous for our workers to go there. We cannot enter those areas. In fact our female workers can never work an area alone in Hillbrow or Berea”

Van Niekerk says the split of cleaning and law enforcement functions related to illegal dumping is problematic. “We just keep doing the cleaning. We are not allowed to do any law enforcement. That becomes a JMPD problem. We would like to get a few powers to ticket people. If you can write one ticket in the street, that knowledge moves through the street very quickly. People get to hear about it and they stop dumping. JMPD are more concentrated on traffic fines – which are easy prey. But no one is policing the waste problem enough. We only act if there is a complaint. That takes a long process to sort out”
7.1.5 The relationships between the City and the residents

The City has embarked on high profile public consultation exercises in the past year, first to launch the 2006-11 IDP and Growth and Development Strategy in 2006 and then to launch the draft Inner City Charter in 2007. These processes were each accompanied by pre-launch workshops and consultative processes. However, both sets of processes leading up the launches drew in relatively small numbers of people and a small range of stakeholder groups. The GDS Summit reached 1 500 people but this was not an opportunity for communities to provide planning input into the process. It was late in the development stage of the GDS and was a consultative rather than participatory exercise. While both processes have accessed a larger set of stakeholders than previous exercises, there is a deep lack of engagement with civil society in these and other processes. Everatt et al identify a large number of civil society groupings – some of which are acknowledged as extremely fragile – who are active in the Hillbrow/Berea area albeit in a somewhat fragmented way. These groups were not involved in the drafting of the Inner City Charter. Moreover, they are groupings that have not come forward or been attracted to City processes as an organised voice.

There is some evidence from the recent past that residents have not been entirely passive, in spite of the fragility of their organisations. In 2003 community organisations in the study area prepared a Hillbrow/Berea Regeneration initiative. This document was presented to Council. It appears the document was noted but generally ignored. The only intervention was taken up. This was the establishment of Peoples’ Centre at Highpoint. However this centre functions as a one-stop-centre for certain State functions rather than an active community meeting place that might serve a wide range of social and institutional needs of the area. It has been criticised for not fulfilling the needs that were identified by the Regeneration Initiative (Everatt et al). The community plan was apparently met with some disparagement from inner city officials and was not taken seriously according to a researcher in the study area (Winkler). This mismatch of State and community intentions in the area was reinforced when, a year later, the City approached the same organisations to provide input into the City’s 2003 IDP. Community organisers felt that this was ‘participation for the sake of it’ rather than meaningful engagement with community stakeholders. The participatory exercise attached to these and other City planning exercise are compliance driven as they fall into annual turn-around processes in the IDP. No participatory initiative that draws issues upwards from the grassroots of community life and organisations has been established in the area. This leaves City planning processes at great distance from the communities they are intended to serve.

Formal processes of ward committee engagement do take place periodically in the area. The strategic planner for the area said that these processes are formalised and that they do draw in limited numbers of community members. She indicated
that the issues raised there are often around service delivery problems. Issues are
captured in the City’s database and are fed to the particular utility companies. Again it is difficult to find the strategic impetus or the governance, rather than compliance agenda in this approach.

These concerns with community participation are brought into stark relief when contrasted with the City’s intense engagement with private landlords operating in the area. The larger landlords who are highly organised through POMA have established monthly meetings with key departments. POMA is also consulted by the inner city office and by other departments of the City around problems on an ad hoc basis. Key City officials for all departments in the study area are on first name terms and in regular contact with Brian Miller, head of POMA. Furthermore this grouping had a major presence in the drafting process of the Inner City Charter. A parallel process with community organisations or the voice of broader residents is entirely absent.

7.2 Property owners and managers of rental housing buildings

Property owners and property managers of rental housing buildings in the Hillbrow/Berea area are a diverse group with varying levels of organisation and varying interests in the neighbourhood. They include:

- Large residential owners with huge investments (Jozi Housing, Ithemba Properties, Connaught Properties);
- Large residential property managers who look after property on behalf a wide variety of owners (Trafalgar);
- Small residential owners (parties who own one or two small buildings or one or two flats in sectional title buildings);
- Small residential managers;
- The owners of institutional housing stock (Johannesburg Housing Company);
- Managers of social housing (Madulo Moho);
- Facilitators of Residential Improvement Districts (Josie Adler);
- Lending institutions (Banks);
- Specialist housing financiers (TUHF).

Large owners operating at the more formal end of the spectrum see themselves as “brave investors”, with long-term interests in the area. They are extremely careful to distinguish themselves from the slumlords, who they view as expedient fly-by-night speculators who are out to exploit the poor and who foster an atmosphere of lawlessness. According to the Trafalgar Inner City Report there is considerable alignment between these “brave investors” and the interests of the poor: The ‘good landlords’, “invest huge time and effort into issues like by-law enforcement and sectional title training. These landlords are as anxious as human rights campaigners
like Wilson\textsuperscript{29} to see the law deal with greedy and unscrupulous slumlords. Crime preys in the aura of unaccountability fostered by slums.”(Trafalgar 2006)

Social housing landlords, in turn, distinguish themselves from the more commercial landlords: thus according to Taffy Adler of the Johannesburg Housing Company, a large and influential social housing organisation, “The commercial landlords focus on protecting their assets. For us its different – you want to try and protect your asset, but you also want to make a social impact. We try and combine the two.”

The tensions between 'good landlords' and 'bad landlords' are fuelled by two processes. In the first instance, 'bad landlords', through slumming, lower the value of properties in the area and hence lower the yields that 'good' landlords hope to reap from their investments. However, when property values do increase because of the efforts of the 'good' landlords, the 'good landlords' become resentful because the 'bad' landlords profit from the regeneration efforts of the 'good guys' without having to do any of the work. The key conflict for the 'good landlords' is not between themselves and the poor, but between themselves and the 'bad landlords', and then with the Council, which allows these slumlords to operate with impunity.

Relative to the larger landlords who have invested significant sums in upgrading their properties, it would appear that 'slumlords' are taking less of a long-term view. By choosing to target the lower end of the market though cheap rents, the slumlord may not earn enough to adequately maintain the building. Alternately the slumlord may be getting sufficient returns but consciously chooses not to maintain the building and pockets the rent instead. Compliant and/or vulnerable tenants, who for various reasons endure bad living conditions in silence, or an inactive municipality, which fails to take appropriate measures, in effect allow slumlords to get away with slumming. This is evident from the extent to which they have allowed their buildings to deteriorate. These landlords derive considerable income from renting out space at very similar prices to the formal landlords, but offer considerably less in the way of services. In many instances the Council is not alerted to these situations because the landlord pays a minimum amount for rates and services, and therefore manages to 'keep under the radar'.

\textbf{7.2.1 Property owners' relationships with one another}

The bigger landlords in the area have organised themselves into POMA under leadership of Brian Miller, CEO and owner of Ithemba Properties. POMA organises on behalf of Ithemba, Jozi, Connaught and other large property owners in the Trafalgar stable. POMA has become a powerful grouping that lobbies the Council on behalf of its members and facilitates the sharing of information. These

\textsuperscript{29} Stuart Wilson of COHRE and the Wits Centre for Applied Legal Studies
organisational efforts are highly valued by its members. “You live or die by your networks, and POMA is one of those networks,” says one property manager.

Another collective initiative of the large property owners is the “Tenant Profile Network” (TPN). This is an online credit database to check tenants’ credit and rental history. Owners who subscribe to the TPN can download credit data on potential tenants. It is designed to enable landlords to track serial defaulters and to prevent ‘bad’ tenants moving from one building to another. Current subscribers hope that as more buildings owners or agents sign onto the programme, it will build a large database that they can share among themselves. Tenants who default because they genuinely cannot pay – because they have lost their jobs or their economic circumstances have changed – are likely to be progressively excluded from buildings owned by TPN subscribers.

In order to draw out the contrast between their properties and those of the slumlords, the large property owners have embarked on a strategy to paint their buildings in distinctive colours. Jozi Properties paints its buildings pink, Connaught Properties paints its building orange, Ithemba Properties paints its building coral. The intention is to ‘crowd out’ and shame the slumlords whose buildings appear tatty in comparison.

We were not able to ascertain whether ‘slumlords’ organise amongst themselves. If they were to do so, it is likely that their organisational methods would be somewhat opaque.

7.2.2 Property owners' relationships with the City

According to one property owner there are clearly defined roles for building owners and for the council.

The role of owners/ investors is to:

- Take the risk;
- Upgrade buildings;
- Rent buildings out;
- Maintain buildings;
- Collect rentals and service charges – not ideal, but a function landlords have taken on.

The role of the council on the other hand is to provide an orderly structure that supports the activity of investor. This involves:

- Providing basic services and maintaining these;
• Enforcing council by-laws to ensure that the conditions of health and safety are maintained in and around buildings;
• Collecting fees for their services (at present landlords are doing this task);
• Controlling informal trading;
• Maintaining roads and pavements;
• Maintaining drains.

The larger, well-organised landlords have both good and bad relationships with the City. POMA organises regular meetings with Council to make Council aware of their needs. POMA was also a vocal participant at Inner City Summit in May this year. A number of plaques in the Ithemba Properties boardroom on the ground floor of the Metropolitan building testify to the fact that the City values the regeneration efforts of the company. This is not surprising, given that the more formal landlords and the City share a similar strategic vision for regeneration.

However on a day-to-day basis there is considerable conflict between these landlords and the City. Building owners point to institutional shifts and losses. Miller says that the Inner City Office used to be efficient and fairly well staffed – “If there was a problem, we went to the Inner City office. And they sorted it out. When the Inner City Office was functioning relatively well, a few years ago, POMA developed a list of 214 complaints. These were systematically tackled with the council. It took 7 months to sort out all the complaints. Now they pass the stick. We need a dedicated inner city office that has the authority to coordinate and budget. What remains of the office is really only one individual – Martin New. He doesn’t have a structure around him”.

Over and above these institutional issues, landlords’ complaints centre around bad service from the utilities, (particularly Pikitup who are “slow, unreliable and expensive”); billing problems; and lack of by-law enforcement.

Landlords' problems with the utilities, according to Miller, are the result of the fact that “the service level agreements between the City and its utilities have not been signed. When we approach Pikitup with complaints that it is not doing its work effectively, Pikitup says that it does not have instructions to do work at a different level. There are no set standards for the inner city that are different from other areas. The Council and utilities have not formulated a maintenance plan that specifically addresses the pressures and needs of this area.”

For the more-formal landlords that we interviewed, there were two problems associated with billing:

• In the first instance, irregular and inaccurate bills created big problems for landlords. Andrew Shaefller for example says that in some buildings water had not been billed for five years. Thereafter owners received a massive
backdated water bill creating a budgeting and cash-flow crisis. The monthly estimates – without proper reading of meters – are problematic given that these are so inaccurate as to make the periodic accurate bill exorbitantly high. According to Schaeffer, many smaller owners cannot budget adequately for these fluctuations.

• The second problem was the fact that landlords had to bear the responsibility for collecting service charges – which had an associated administrative cost – and then did not have any power to act if these were unpaid. According to Brian Miller, “landlords are billed through a bulk meter, but we are not the end-users… Landlords incur the admin costs for collecting municipal service fees from the end users. Landlords also are not empowered to terminate services…” Miller says that the Municipality has shifted its responsibilities onto the landlord.

The larger, more-formal owners are also highly critical of the City’s inability to enforce the by-laws. Miller says lack of enforcement of City by-laws is “the single biggest contributor to inner city decline”. Miller’s position on by-law enforcement in Hillbrow/Berea is that “government must enforce the law – and then people will respect the law”. Adler echoes these sentiments: “A major gap has been lack of enforcement from city. We brought in some Environmental Health officers to look at buildings in the area, but we have had less success with Joburg Water, Pikitup etc.”

The large landlords have devised a number of creative strategies to address perceived Council shortcomings. One managing agent has acquired “a network of helpful officials within the council – people who will sort problems out… or we employ consultants who know how Council systems work to take up account queries with the City.”

Another approach to dealing with perceived Council dereliction has been the establishment of “Residential Improvement Districts” or “Neighbourhood Improvement Districts”. There are two of these operating in the study area: Legae Lerona, largely an initiative of Ithemba, and located in close proximity to two large Ithemba-owned buildings in Berea, and Ikhaya, largely and initiative of the JHC in the vicinity of their properties in Hillbrow. RIDs are partnerships between the private property owners and the City whereby private owners come together to pay for additional urban management services – mainly security guards and cleaning – in a particular area. Notwithstanding Miller’s efforts to establish the Legae Lerona RID, Miller believes that from a commercial point of view CID and RIDS are poor decisions. The result of these measures is that “businessmen are paying an amount over and above what they already pay… We are doing the work of the Council, but we are still paying for Council to provide the services it doesn’t provide. But these interventions have become critical and are the only beacons of hope and sense of order within the inner city.”
“We do it,” says Miller, “because when you work in the City you have to have a holistic approach... It’s not just about our buildings”. Taffy Adler of the JHC has also taken on land management roles that might ordinary be seen as the Council’s responsibility: “In Elangeni [in the CBD] they aren’t policing the taxis. So then we often have to do it ourselves. The Landrost area [also in the CBD] has been completely over-run by taxis. We have managed to hold off informal traders. Our security guards patrol the exterior.”

Taffy Adler of JHC has been instrumental in establishing the Ikhaya Neighbourhood Improvement District in Hillbrow, comprising ten building owners with 1 700 units. They have worked at bringing caretakers together and organised a successful ‘quiet New Year' campaign in an attempt to curb violent activities, like throwing furniture from upper floor flats, which usually accompany the holiday. According to Adler, “Ikhaya is trying to get the Parks Department to reinstate basketball court behind St Martins. The council must put in capital cost and we will manage.” In Ikhaya, traffic control is also emerging as a campaign: “We wrote to the Council to put in speed control. We thought of engaging directly with the bus companies.” Significantly says Adler, “The Council is not a strong partner in any of our campaigns. Notwithstanding these reservations, Adler is excited that the Inner City Summit process has taken on board the neighbourhood improvement concept. The Inner City Summit said Council would support the start-up cost of a Neighbourhood Improvement District. This is a significant commitment: the Ikhaya initiative cost over R300 000 over a three-year period. (See Appendix 7-4)

In Legae Lerona, Miller has stationed security guards in elevated turrets at either end of Alexandra Street where his Metropolitan and Plumridge are located and has also entered into a partnership with City Parks to manage the nearby Alec Gorshel Park. The park is popular with local citizens, especially school children from Barnato High School and crèches nearby. Legae Lerona patrols the park and ensures that it is kept clean. Legae Lerona also locks the park at night. (See Appendix 7-5)

The NIDs and RIDs are indeed pockets of highly managed space. Directly beyond their boundaries there is litter and poor maintenance in many parts of the study area. There is however a certain amount of scepticism from the tenants supposedly benefiting from the RID.

The RID has also taken strong-arm action against street children in the vicinity. When efforts to enlist the support of social services to help the children failed, the Legae Lerona management eventually demolished the bus shelter where the children were living. Miller complains that the Municipality is not fulfilling its social responsibilities. This in effect suggests that public spaces – like the streets – are being effectively privatised through the actions of the RID.
In the course if this study we have been unable to determine the nature of the relationship between slumlords and the City. Anecdotal evidence suggests that slumlords have every reason not to engage with the council.

7.2.3 Property owners' relationships with tenants

Property owners relate to tenants in one of two ways. Property owners may choose to manage their own buildings. Brian Miller of Ithemba, Sandy Barnes of Jozi ad Taffy Adler of JHC operate in this way. Alternatively property owners may choose to appoint a managing agent – like Trafalgar30, for example, to deal with tenants on behalf of building owners. Even the most direct of these landlord-tenant relationships often takes place through an intermediary – an on-site building manager or caretaker.

At each point of landlord-agent-caretaker-tenant interaction there are opportunities for communication failure unless these relationships have been carefully defined. One of the distinguishing characteristics of well-managed buildings is that the relationships between managers, owners and caretakers are good. In the case of badly managed buildings, managing agents are known to pocket some of the rentals. Badly managed buildings often have no caretaker at all.

In the larger, more formally operated buildings, managing agents or owners are responsible for screening and placing tenants. Thereafter tenants will deal with individual building managers regarding day-to-day problems in the buildings. According to Andrew Shaeffer of Trafalgar, a large managing agency, “building managers generally live on site and are a crucial component to the maintenance and management of buildings. Adler concurs: “You can trace good management patterns to the original building manager because they put the right patterns in place like regular rent payments, good maintenance, well-controlled parking, proper social interactions... These patterns of behaviour are very influential in maintaining order”.

In smaller buildings, building managers or caretakers may be shared between two or more buildings. The social housing landlords also have tenant facilitators in addition the building managers. These are generally volunteers who receive a small stipend and provide tenant support.

Unlike absentee owners, the better landlords can be defined by their 'hands-on' approach. They generally have offices within the buildings that they own, or employ very effective building managers over whom they keep a close watch. Brian Miller’s

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30 Trafalgar Properties is a residential property management company. It manages 2 000 residential units in 50 buildings. The company acts as managing agents for owners. Their portfolio includes many flats in large buildings (up to 260 flats in a 20 storey building) and few flats in smaller buildings.
Ithemba Company, which operates from the ground floor of the Metropolitan, admits: “We are control freaks”.

And indeed, extraordinary levels of tenant control are evident in many of the well-managed buildings in the study area. These control measures are captured in house rules, which form part of the lease agreements between tenants and landlords. Aspects of control include stringent letting requirements, rent payment requirements, access control, laundry, curtaining, and restrictions on tenant organisations:

- **Letting requirements:** Some owners require some form of South African identification, which may include work permits and not necessarily citizenship. Other owners are very circumspect about allowing access to non-South Africans. One owner in particular targets South Africans – “people who should ‘legally’ be in this country”. The owner says there is enough demand from South Africans for it not to be necessary for his company to widen its target market. Some owners are explicitly xenophobic and believe that crime can be linked to non-South Africans. Many property owners demand two months rent upfront as a deposit.

- **Payment of rents:** Building owners have particular requirements regarding payment of rent. One of the owners who operates at the more formal end of the spectrum has the following rules: Rental and service payments are due on the 3rd day of every month. If tenants do not pay, they are given a written warning to pay within 48 hours. Then if they do not pay, the electricity is cut off. After three further days of non-payment, a final written warning is issued. If the tenant has not paid within seven days of the final warning, the lease is cancelled and the tenant evicted. The building owner acknowledges that “legally, landlords can only cut electricity off to tenants if they are granted a court order to do so.” Slumlords use a variety of other techniques like locking tenants out of their flats or taking tenants’ furniture out into the street. (Interviews with Kayaya Tshombe, Etienne Masengo, Diyoka Bakama and Francois Kadima)

- **Access control:** Many owners justify tight security measures in buildings in terms of tenants’ needs for safety, but these same measures are also an effective way for owners to control occupation density. Formal owners are increasingly relying on biometric devices – fingerprint readers – to control access. This involves placing a finger print pad at every entrance to the building. Access is allowed via the finger print pad and an access code. The system works in the following way: If a one-bedroom flat has four occupants, one resident who is responsible for paying rent is registered as the primary tenant and that person’s fingerprints are registered on the system. The primary tenant can then register three additional residents.
whose fingerprints are registered on the system. These four people have 'free access' to the building. Visitors are monitored by a security desk at the entrance to buildings. Security guards call the tenant to verify visitors. Visitors’ fingerprints are registered. These visitors have to be out by ten o’clock on the same night. The same visitors are not permitted to be in the building for four days consecutively. This regulation is intended to prevent sub-tenancy, or a shift-sleeping system. Longer stay visitors have to have their ID documents submitted to the security desk 24 hours before they arrive. These ID documents are retained by the desk for the duration of the visitors’ stay in the buildings. In one building tenants are also obliged to register large electronic devices that are being brought into or taken out of the building. This is intended to prevent theft. Smaller property owners who cannot afford the high costs of biometric systems use security gates and guards who may or may not demand visitor’s ID documents.

• **Laundry:** Laundromats and dryers are made available in some buildings and drying yards are available in most managed properties. In these buildings tenants are expressly forbidden from hanging washing on the balcony.

• **Curtains:** One property owner forbids tenants from hanging their own curtains. He is concerned that sheets might be draped in the windows, compromising the aesthetic quality of his building. He provides blinds in all the flats.

• **Tenant organisation:** One property owner expressly forbids tenants to organise amongst themselves in his buildings.

In addition to these coercive and arguably invasive measures, many of the better property owners/managers also provide a number of softer services in their attempts to meet tenants’ needs and/or make their buildings more marketable:

• **Play space:** JHC try to provide some open space for a play area. In most buildings they provide a jungle gym, “but it is never enough: The issue of leisure space is a big one. School holidays are a big problem – high rise buildings are over-run with kids who have nowhere to go.” In Rondebosch JHC has developed an aftercare centre that has been used as the site of some holiday camps. JHC also get students from Wits to run classes, or adults from the building who have some teaching experience. This is JHC-funded and forms part of JHC’s social responsibility programme. JHC also boasts 14 building-based soccer teams and four building-based netball teams, but none of these are located in the study area.
• Créches: Many of the better landlords have made various attempts to develop crèches given the shortage of these facilities in the neighbourhood, but have encountered a number of stumbling blocks. JHC have developed three on the basis that they provide the space and rent it out to professional service provider, but again, none of these are in the study area.

7.3 Body Corporates in Sectional Title buildings

A large number of buildings\(^{31}\) in the Hillbrow/Berea area have a different type of tenure from ‘ordinary’ rental. These are the Sectional Title blocks, theoretically managed by Body Corporates.

While it might be possible in the case of ‘ordinary’ rental buildings to tease out the relationships between the key actors, the complexity of governance arrangements in Sectional Title blocks makes this almost impossible. It is therefore much more difficult to establish whose interests are being served by management practices in these buildings. It will become evident that the governance arrangements are so flawed that it is questionable whether anybody gains from these developments. The negative impacts of these buildings affect resident owners, tenants, financial institutions and the City. The deterioration of one Sectional Title building soon impacts on the surrounding buildings, lowering property values and hence undermining the rates base. According to one property owner, who has investments near to some ‘bad’ sectional title buildings, “Sectional Title is a real problem in the area. Ninety percent of the problematic buildings are owned under Sectional Title. It was a problem which started in the late 1980s, early 1990s. Many buildings were degrading, owners were abandoning their responsibility, and tenants weren’t paying… Many owners started selling their buildings under sectional title, to individuals. This process rode on the crest of the ‘homeownership’ rhetoric of the new State. There was no control over who owned the new flats, how they were managed or sublet, whether owners of individual units were absentee landlords or not… When the Municipality has problems in Sectional Title buildings they cannot trace owners, and even if they could, it is much more difficult to evict owners than tenants of a building!” (Barnes)

Notwithstanding the collapse of governance arrangements and the inadequate living conditions that are the result of non-existent management, these buildings offer some form of accommodation for the urban poor albeit in an unsustainable environment.

According to the Shisaka report on Sectional Title buildings, “The critical difference between Sectional Title buildings and rental housing developments is the governance arrangements that arise from multiple owners. A rental housing

\(^{31}\) Sandy Barnes of Jozi Housing estimates that 40% of buildings in the study area are Sectional Title blocks
development is owned by one entity – be it an individual or a company – which has the authority to make management decisions and engage uniformly across the tenant body in terms of those decisions. A Sectional Title building... comprises multiple owners, each with distinct property rights.” (Shisaka 2006)

Whereas in a rental housing development the single landlord has one common relationship with all tenants, in the Sectional Title building there are multiple and varied relationships:

- Owners might be residents; sub-letting residents (i.e. both resident as well as a landlord to a tenant); non-residents (i.e. not living in the unit personally, but renting this out to a tenant).
- Tenants might be 'ordinary tenants' (i.e. renting the full unit from a resident or non-resident landlord); sub-letting tenants (i.e. renting the full unit from a non-resident landlord and sub-letting this to other sub-tenants); or sub-tenants (i.e. renting a portion of the unit from a resident landlord or sub-letting tenant).

Other actors who engage with Sectional Title buildings include:

- **The Body Corporate**, which takes responsibility for all management decisions in the building including the setting of levies charged against the owners for the management of common space and payment of rates and services to Municipality. In this regard, the Body Corporate mediates the relationships between owners and tenants, and between residents and the Municipality and the service provider. While both owners and tenants have a relationship with the Body Corporate, only owners are entitled to participate in the decision making around the Body Corporate.
- **The Managing Agent**: the Body Corporate often outsources management functions to a Managing agent.
- **Municipality and utilities**: The municipality charges rates. The Body Corporate is responsible, on behalf of the owners, for settling the liability, which it then passes on to owners through a levy charge. Service providers (such as Joburg Water, Pikitup, or Joburg Power) enter into a single service agreement with the Body Corporate, which then charges individual residents (whether owners or tenants) on a per unit basis. (Shisaka 2006)

Thus, according to the Shisaka STTP report, “this complex web of actors, multiplied by the number of units in the particular building or development and the particular arrangement of owners, tenants and sub tenants, exacerbate management weakness considerably. If there is a dispute between any two parties, this has ramifications for all other relationships. Because it is at the centre, the Body Corporate is the most critical body. However, formed by owners – whether resident or not – who are first skilled in other areas and not necessarily experienced in
building management, it is an inherently weak structure... The multiplicity of actors and diversity of relationships creates the space for weak links to undermine management and exacerbate problems. As the primary actor in the various relationships, the weakness of the Body Corporate is especially problematic to sound performance.” (Shisaka 2006) (See Appendix 7-6) Stuart Wilson re-iterates the complexity of management systems, but also the extent to which the management vacuum has created a space for a number of questionable transactions, “with money being creamed off legally or illegally along the way.”

7.3.1 Relationships between owners, tenants and the Body Corporate

Body Corporates are made up of unit owners who have voting powers in the Body Corporate. Furthermore Body Corporates are financed by levies, which are monthly contributions from these owners. The Body Corporates set the amounts of these levies on an annual basis. Levies are intended to cover rates and the maintenance of the common areas.

There are both structural and financial weaknesses associated with Body Corporates. In the first instance, because the Body Corporate is made up of owners, these owners are then obliged to be “both referees and players”. Secondly, in low-income Sectional Title developments owners will look to minimise costs. Because many owners in Sectional Title schemes are absentee landlords, they in particular, will tend to “emphasise affordability over sustainability”. The STPP survey found that most residents accepted the affordability trade-off: that ‘you get what you pay for’. This however “is a short term consideration made at the cost of longer term building sustainability” (Shisaka 2006). Significantly, although the Body Corporate is the primary role player in managing the multiplicity of relationships between parties, it is not afforded the strength or authority to carry out its management role effectively. The Body Corporate also has no relationships to sub-tenants who might renege on their payments, or damage common space.

Similar governance problems were unearthed by the COHRE researchers in their investigation of San Jose, a sectional title building in Berea. The COHRE researchers found that only around three of the 129 units were verifiably owner occupied... In the past different portions of the units in the building had been managed by various agencies under the supervision of the Body Corporate. The Body Corporate was dissolved in 1994, after it ran up substantial water, electricity and service debts... informal rental arrangements developed between new (largely African) tenants and white owners, Cash rents were paid to owners, who then passed the money onto managing agents. The agents then paid rates and services levies and maintained the building. At some point during the early 1990s... this arrangement broke down and the managing agent stopped receiving sufficient remittances from owners to pay for rates and services. Long-term residents of the building say they paid their rents in full and on time...(but) the absentee owners
simply stopped passing on payments to managing agencies in the building. Arrears began to accumulate and today amount to approximately R2.5 million. The last managing agency withdrew from the building during 1997…” (COHRE 2005).

The collapse of management systems was widespread in the five buildings studied in the STPP report: all of the buildings require remedial attention, whether in respect of safety and regulatory compliance, health and functionality, or aesthetics and resident convenience. For some, the remedial attention required suggests significant additional investment which on a cost per m2 basis equals or is greater than the most recent market price. Residents of five Sectional Title blocks who were interviewed for the STPP report expressed dissatisfaction with the Body Corporate Committee. The main concern was that “… the Body Corporate failed to address common problems in the building… and that the Body Corporate's ability to manage tenant’s behaviour was ineffective… Generally levels of satisfaction with the buildings are low… Residents were dissatisfied with value for money they got for the rent and levies that they paid…” (Shisaka 2006)

7.3.2 Relationships between Sectional Title buildings and the City

Similar complexities govern the relationship between the Municipality and the various actors involved in Sectional Title buildings:

- Rates accounts, while the responsibility of individual unit owners, are billed collectively for each building to the Body Corporate.
- Services accounts (water and electricity) vary. In some cases services billings have been transferred to Joburg Water and City Power; in other cases service billings remain with the city of Joburg; some Sectional Title buildings have accounts with the City and with Joburg Water and City Power.
- The STPP report found that, “each building has a different arrangement with respect to rates and services, and reports received from the City with respect to certain buildings did not reflect the reality in those buildings. Simply put, if the City cannot clearly and simply tell the Body Corporate how much it owes each month, how can the Body Corporate be expected to pay – and indeed be expected to believe that it must indeed pay?” (Shisaka 2006)

The result is that rates and services arrears are widespread. According to the STPP Report, “there are currently 175 buildings with Sectional Title property accounts in arrears in the Johannesburg Inner City that have been handed over to attorneys… The total debt owed amounts to R43,5 million in rates and taxes alone. Available data on services charges are difficult to obtain. They are estimated to be in the region of twice the amount of rates and taxes. Johannesburg CBD, Hillbrow, Berea, Yeoville, Bellevue and Bellevue East comprise 85% of the total accounts in arrears.” (Shisaka 2006:7)
At present there is an initiative by the City to create an administrator to address the existing problems with sectional title buildings (J Adler).

7.4 Residents

A wide range of residents were interviewed for this study, with varying living conditions, levels of affordability and status in the City. The sample included South Africans and foreign nationals; residents living in well-managed, middle-income buildings; people living in poor conditions in buildings with low levels of management; employed and unemployed people.

7.4.1 Relationships between tenants and property owners/managers

The tenant relationship with landlords is based on rental payments from tenants and on the provisions of services and maintenance of facilities in buildings by landlords. These relationships are highly varied but the common theme that emerged from all tenants is that they have a limited voice, whether over basic services (in the case of ‘bad’ buildings) or over visitor access (in the case of highly managed buildings). The following stories illustrate the rental relationship between tenants and landlords:

- Kayaya Tshombe is currently staying with one other person in The Ridge Hotel where they pay R650 for the room, R325 each. “We share a communal bathroom down the passage with other building occupants. Before Saltwater (the owner) moved in to manage the building, he did not have to pay rent as he was an employee of the building but he now has to pay rent like everyone else. The rent is paid to the bank. If the rent is not paid on time, they throw your things out.”

- In Tygerberg, Etienne Masengo shares a room and a sitting room with three other men. There is no written agreement governing the accommodation. It is double the rent for the deposit. He pays R 550 a month for his half-share of a room. Masengo has stayed there for two years and would like to move out and find a place of his own. He says “the building is bad. But 99% of buildings in the area are not in good condition; those places are a mess up. They are very dirty. The dustbin is often too full. It is not always collected on time. They are not cleaning it fast enough. Then there are the lifts, 99% of lifts in Hillbrow are fucked up. Two out of three lifts in my building are working.” Although he has hot water, he knows of other people in his building without hot water but who are paying the same money. “We have to pay money to fix it ourselves. If they fix it they will charge you. If you take too long to fix it yourself, they will fix it and they will charge you anyway. We
complain to the management – the security guards at the front entrance – every night. But they don’t do anything…”

• François Kadima, who lives in dilapidated hotel, says that residents of the buildings were not informed when the building changed ownership. “We don’t know the owner. The management is fucked up. They are not competent to do their proper job. 99% of people in my building are foreigners. That’s why they don’t take care of the building. If you ‘touch’ [fight] them they call the police. The police don’t even ask what’s going on, they just protect the agent. We complain all the time. But they don’t take care of us and we pay our money.”

• In a highly managed building a few blocks from this ‘bad’ building, Robert Manasoe has a very different experience. He likes Plumridge as “it is cleaned daily, security is tight and the flats are in good shape”.

• Prince Ndevhu of La Rosa, a newly renovated block says there is a fluidity of resident movement between good and bad buildings. He says it is not only a one-way movement of upgrading to a better building when affordability allows. People also slip easily from the good buildings to poor buildings, “Anytime rent goes up, many people move to bad buildings as they cannot afford the new prices. Some people turn rooms into creches or hair salons in those buildings to make money. Or people share with ‘casuals’ to pay for the rent”.

• Miche Collins who lived in a ‘bad’ building before it was refurbished and has remained in the building has witnessed the transition from one condition to another. She talks of the arrival of the new property owners, “When they arrived, Ithemba fixed window hinges, windows and screws as one could not close windows properly under previous management”. She really appreciates the good waste management which came with Ithemba. Some of the problems with previous management were: “water used to get cut off and fire extinguishers would disappear and on one occasion-the whole building nearly burnt down as no one could find a fire extinguisher which worked. There were also no set rules with old management. But the building was ‘liveable’”.

• Freddy Apane, who lives in the same well-managed building, says he likes the predictability and uniformity that Ithemba has brought to the living environment. He likes the fact that everyone has to have the same window blinds-even though he had to pack away his expensive curtains because of this fact. “It makes the flats appear better. And no-one is allowed to hang their clothes outside the building as there is a fine for this”.

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Another key relationship that residents have with landlords revolves around access control measures in buildings. In highly managed buildings, these measures have created pockets of extremely high security in an otherwise ‘dangerous’ environment. The security of these buildings is so tight that residents feel them to be safer than many other parts of the city. Some tenants expressed strong appreciation for the high levels of security provided by landlords and several mentioned that living in such buildings gave them ‘peace of mind’. Prince Ndevhu says the high security makes him feel safe: he once left his flat unlocked for three days and his possessions were untouched. Apparently the residents have adopted a communal mindset of “mind your own business and do not touch other tenants stuff”.

But these security measures are not unanimously welcomed. While they enjoy the tight management in Ithemba buildings, Robert Manasoe and Freddy Aphane both find the extremely high security to be an irritation. Manasoe says it makes him feel as though he is living in a hospital (visiting hours begin at 10am and end at 10pm). No visitors are allowed a sleep over unless they have given the security 24 hours notice. “My family or friends cannot just arrive and sleep over if they need to, even though I have the space,” says Aphane.

By contrast Etienne Masengo notes that in Tygerberg, a badly managed building, security is not that tight and that residents have devised ways of circumventing the system: “There is a security guard at the front entrance. It’s just a man standing. Someone coming to see you – they have to give their ID. If you don’t have ID you can pay R10 and they will let you in”.

Many residents articulated they felt powerless to complain or protest to landowners. Their roles as consumers of services in buildings were almost passive. It was interesting to note that during one focus group session a building manager sat in on the discussion. It was only once he had left that residents were comfortable to raise any concerns they felt with the building or management arrangements. Freddy Aphane noted that “there are no structures for making suggestions to management and there are no communal meetings within the building”. He also said landlords were a barrier between tenants and the Council. “Tenants only receive notices of meetings between Council and management. There are no discussions about that either”.

A particular source of resentment among tenants in some of the well-managed buildings relates to additional charges to finance the cost of the Residential Improvement District. One tenant said that there was insufficient consultation before these costs were passed onto the tenants. Tenants received a note under the door telling them about the RID, and “the next thing we knew, we were paying an extra R27 a month. We don’t even know if it’s worth it because the extra security guards
patrol during unnecessary hours, rather than late at night when their services are really necessary”.

7.4.2 Relationships between tenants and sub-tenants

Sub-tenants have a tenant-landlord type relationship with the main tenant, to whom they pay rent. This main tenant was described by one sub-tenant as a ‘small landlord’. The main tenant dealt with each of the sub-tenants separately. They did not discuss the terms of their tenancy with each other. In buildings where there is access control this main tenant would sign the subtenants onto the security system. If the main tenants wished to cancel the relationship, he would have the sub-tenant’s data removed form the system, “on the same day” Etienne Masengo noted.

7.4.3 Relationships of residents to the neighbourhood

Residents interviewed for this study indicated surprisingly little interaction with the wider neighbourhood of Hillbrow/Berea. On the whole men felt safer to walk the streets of the area than women. But men such as Prince Ndvedu said that he felt safe only because he moved through the area by car “It is pedestrians who are not safe”. He drove into the area after work each day, parked underground, went into his building and then left the building each morning. He did not use the area for shopping or recreation at all. Most of the residents we interviewed did not have the luxury of private transport and therefore tended to use the local supermarket for groceries and buy their daily food supplies from street traders.

A few respondents said that they enjoyed the vibrancy of the area. Prince Dube of La Rosa says he really enjoys being able to interact with many types of people from many parts of the world. “We all live together here, black, white and foreigners mix everywhere.” Dube has friends from Cameroon, Congo, Somalia and Malawi and he particularly enjoys Nigerian films. Maibo Dibokwane says he enjoys Berea because it is affordable, but says the only times he moves about in the area is to buy vegetables, get his dry cleaning and to “buy pirated CDs and DVDs, because these are cheaper in this area”.

While transience is often noted as a characteristic of the area and generally ascribed to foreign nationals, at least one immigrant who we interviewed argued against this. “We come to the Hillbrow/Berea area to stay,” says Francois Kadima. He says that South Africans, on the other hand, see a rural area or a township as home: “The Ridge, The Bostonian – they are all student accommodations. These students are from Cape Town or Durban and are just in the area to study. After they graduate they are gone forever… This is my home, not many South Africans can say that.”
7.4.4 Relationships of residents to the City

Residents interviewed saw their primary service relationship within the area as being with landlords. They did not interact with the Municipality. While they were aware of some landlords meeting with the Council they did not see any reason why they would do so.

The lack of communication between residents and the City was raised at one of the meetings leading up to the Inner City Summit. One attendee said “There is nothing to encourage a citizen to tell the City about problems like water running unchecked, or trees falling down. The complaints phone number should be a freecall number. We need to encourage greater proactive resident involvement, rather than being simply reactive as it is at present.” (Josie Adler, quoted in minutes of Inner City Summit and Charter Process: Residential Stakeholder Meeting). These sentiments were echoed by Edmund Elias: “There appears to have been a lack of community input into this document, and it is better to involve the communities rather than ‘educating’ them. (Minutes of Inner City Summit and Charter Process: Residential Stakeholder Meeting 3). It is significant that there were no ‘resident voices' in the plenary sessions of the Inner City Summit.

Notwithstanding this lack of engagement, tenants expressed some opinions about the City’s services in the study area. These included mixed reports about waste removal. Prince Dube who works night-shift said that he can see that the City cleans the streets every night. When he returns home in the early hours of the morning, the streets of Berea are clean. By midmorning the following day, they are dirty. Others, like Dube, complained about bad civic behaviour and about users of the area not caring about the environment. But there were also several residents who complained about poor servicing, inadequate waste removal and sewage running in the streets. One said, “Sewage in the streets can ruin one’s car suspension.” Several residents complained of dark, dangerous streets, saying that it is the City’s responsibility to ensure that area is well lit and because there is a strong link between dark streets and crime.

In spite of the overwhelming sense that residents do not engage with the City, there are some isolated instances where residents have actively confronted the City about perceived infractions of their rights. The residents of San Jose and other buildings have acted forcefully against the City’s efforts to evict them. With considerable legal force they have resisted evictions and have, in the case of San Jose, successfully taken their case on appeal to the point where the City is having to engage with the issue of evictions in the highest Court of the country.

Other urban actors in the area live in fear of City officials. Street traders are particularly nervous about their presence in the streets for fear that they will be
arrested. Many of the street traders we encountered refused to be photographed at their trade.
8 CONCLUSION

The unique physical condition of the study area sets the platform for all urban management functions. This physical context requires high levels of management and enforcement of building and land use control. The consequences of non-management in the context of such high building density and high population density are potentially catastrophic. The spill-over effects of unmanaged waste collection, water supply, revenue collection and land use spread on one site spreads rapidly to other sites, impacting on large numbers of people and other properties, where the problem soon multiplies. The risk of not containing one problem is that, in the jargon of the City, a sinkhole develops and spreads very quickly.

There are problems with both the overall philosophical direction of the City, as well with local area strategic plans. The iterative process of reworking the City’s broad strategic direction, captured first in the GDS and then through the more concretised proposals of the IDP, has given rise to a dual focus on economic growth and pro-poor interventions. However these are not easily resolved in an area like Hillbrow/Berea where these demands compete directly for the same resources – building stock. Pro-poor commitments will need to be accompanied by strong political will to ensure that delivery for the poor happens at scale in this area. While private sector led development (largely orchestrated by the bigger property owners) has visibly contributed to an improved property market, there is little evidence of equivalent efforts on the part of the Council to accommodating the needs of the poor in well-managed environments.

Municipal officials do not project a sense of confidence about ‘what to do’ in the study area. They are overwhelmed by the enormous numbers of policies and strategies that have haemorrhaged from the City and from other levels of the State. In the study area alone there are several conflicting strategies that have been developed with indications that yet another strategy is forthcoming.

In contrast to the approach adopted for the CBD, no flagship investment projects or physical interventions have been undertaken or planned within the study area. At a broad planning level such interventions show an investment confidence and a political commitment to areas. Hillbrow and Berea fall starkly outside of these powerful messages from the City. The absence of ‘big plans’ however has not made way for any ‘small plans’ or incremental interventions in the area. There is little in the way of attention to public environmental improvement outside of select privately managed precincts (RIDs). There are no strategic interventions that speak to any one of the host of issues in the area. This situation is likely to change given the R100 million that has been earmarked for environmental upgrading in the area.
Planning has in effect not been operationalised. While there are many documents and many plans, there are few interventions in the area. This mismatch is reflected in the human resource commitments of the City to strategic planning and policy making versus implementation and operational management in this study area. Strategic planning is the key function of a major unit in the City Manager’s Office and is also a function within the Development Planning and Urban Management Department of the City, where it has few staff but has the support of a wider department. The Inner City Task Team on the other hand, which is the on-the-ground centre of operations in the inner city, has a very small staff. The JDA as the implementation arm of the City is resourced but the study area forms one of many projects and has not yet been the subject of physical interventions in that agency (although a new framework may lead to such interventions).

Of all the urban actors and agents in the study area, the so-called slumlords wield the greatest power, as described in this document. It is the slumlords who have the most to gain from the continued absence of land management in the area. According to one City official it is “the passive building owners in the city [who] have the highest levels of control – they are the ones who keep the area in decline. They offer minimal services, comply just with the minimum of regulations to keep out of trouble, but offer poor quality environments at high rentals. They offer no management of the buildings and no security for tenants.” The same official did an exercise on a building where rent was being paid but the owner was not paying his service charge debts to the municipality. The official estimated that the “slumlord was taking an income of R247 000 per month” and “not one cent was coming the City”.

The absence of tight urban management has created a space in which unscrupulous landlords are able to extract rentals from people, to permit overcrowding of buildings and recoup large profits. At the same time these buildings contribute to neighbourhood decline, loss of building stock and deplorable social and health conditions. Many officials have said that the City has all the legislative powers to deal with slum lording. The absence of a concerted approach to do so amounts to neglect and displays extremely poor urban management. The consequences of such neglect are detrimental:

- To the poor, who are often exploited in poor living conditions;
- To property owners of formalised, managed spaces whose assets suffer decline in value because of the condition of slum lorded properties; and
- To the municipality which suffers a loss of revenue.

There are few sanctions against slumlords, whether from vulnerable tenants or from the Municipality.
Sectional Title buildings are particularly vulnerable to degradation and to slum lording. A proactive strategy for releasing these buildings into the market or attaching such buildings for development and allocation to state-led social housing is recommended. The city has both the tools, in terms of the legislation to intervene in these buildings, but also has a document setting out proposals for the conversion of such buildings to habitable and affordable accommodation for low-income city residents. In this instance the volume of documentation and the paucity of action are again stark.

The stark contrast between slum buildings and newly renovated buildings should not distract from the large number of 'middle-of-the range' buildings, which are reasonably managed and provide affordable accommodation. It is in these buildings in particular that patterns of good behaviour in terms of maintenance, rental collection and investment need to be encouraged and maintained.

Hillbrow and Berea lack social and recreational facilities. The failure to provide adequately for the social and recreational needs of this dense urban population represents a vast gap in urban management and a failure of the City to meet its responsibility in South Africa’s most dense urban area. The study area is absorbing many poor people, all too often in the poor living environments in overcrowded buildings described in this report. However the wider environment of the neighbourhood is equally hostile. There are extremely few social facilities, educational facilities and structures for civic engagement in the area. In an area where private space is at such a premium, the need for well-managed public space and good quality public environments is most pronounced.

The lack of childcare facilities is enormously problematic in this area and inadequate informal facilities have filled the gap. Early Childhood Development, a cornerstone of the City’s Human Development Strategy is not being realised in this area at all. The area presents an enormous opportunity for addressing this developmental need. Neither private nor public facilities for ECD are being established, however. After-care facilities are equally absent and young people in the study area are as a result particularly vulnerable to the illicit activities and dangers of street life in this area.

Some large private landlords have been instrumental in refurbishing buildings in the study area and have contributed to a buoyant property market in the study area. This has resulted in significant investment, a trend that is resulting in a reclaiming of whole precincts of the study area for well-managed, middle-income living. While the City has not led this renewal it has partnered effectively with the private sector in securing buildings and in encouraging private action around service provision. The continuation of efforts that are stimulating these market interventions is important. These efforts, however, should be complemented by a concerted campaign on the part of the City to secure buildings for low-income people. Such action will lead towards a mixed-income, well-managed neighbourhood, which is the best outcome.
of strategising for the study area. The offer made by POMA, who have developed considerable managerial expertise in the area, to manage such buildings should be seriously considered.

The provision and maintenance of services in the study area are plagued by institutional complexity. The study has found that service provision suffers a shortage of resources in the study area. It also suffers from limitations of mandate. Furthermore the continued split of functions into silos, in spite of the Inner City Office’s intentions to coordinate these services in the study area, is extremely problematic. Law enforcement in the study area is the ambit of several departments, notably JMPD, Environmental Health and Emergency Services. These departments are not only at a distance from strategic planning but also at distance from the service delivery arms of the City. Those service delivery arms are the most likely spotters of problems at an early stage. Their lack of a mandate to enforce City by-laws delays any response to the problems. The institutional split of functions also means that a roads official who sees a waste management or water problem may or may not report the issue timeously to the correct department. These delays are not tenable in the context of high building density that characterises the study area.

Governance in the study area is characterised by selective consultation. Currently consultation focuses on ward committee structures and the timing of consultation is linked to compliance (e.g. annual updating of the RSDF). There are problems both in terms of who is being consulted and the substance of the consultation. Ward committees are political structures that represent only a small proportion of residents who are South African nationals rather than the broader body of urban actors operating in the area, most notably foreign nationals. These interactions also exclude non-resident users of the area such as informal traders. Furthermore the ward committees do not address the specific needs of sectorally-based stakeholder groups such as the youth, women, businesses, faith-based organisations etc. In the absence of grassroots interaction with these multiple urban actors, even well articulated plans are top-down. The content of the consultation is not focused on a nuanced understanding of needs in the area.

This gap is a crucial problem for the City: strategies may be insensitive to the needs of the communities they are intended to serve and the chance of support for implementation from communities is low. The City would be well advised to heed the advice of one of its own strategic thinkers who advised government to seek out new trajectories of becoming – which do not compromise existing identities. The City should actively negotiate arrangements that do not negate existing practices.

“Management should not mean 'better and more policing'. A government that works by identifying as objects of application the current or imminent transgressions of urban actors which then require even more finely tuned prohibitions, is a government destined for failure. Catalogues of government codes
and prescriptions only sublimate this sense of chaos in government itself. They represent a predetermined response that does not bring government any closer to knowing what urban actors want and how they can be induced to reconstitute their wants and ways of realising them in ways less potentially damaging to the sustainability of a social body.” (Gotz and Simone 2003)

The difficulty of such an approach should not be underestimated in the study area. Civil society in the study area is diverse, fragmented, poorly organised and has much to gain by its invisibility.

Notwithstanding these problems, “pro-poor spatial policies and land use interventions should be informed by the multiple requirements of the poor, and specifically their need for access to economic and social opportunities and services.” (Parnell et al 2007)
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**WEBSITES**

APPENDIX A: PEOPLE INTERVIEWED

CITY OFFICIALS
Geoff Mendelowitz (Former official of the Better Buildings Programme)
Johannn Van Niekerk (Plikitup)
Li Pernegger (Former official in the Economic Development Unit)
Martin New (Former Inner City Office operations manager)
Sanmarie Nel (Strategic Planning official)
Tshepiso Lentsoane (Land Use Planning official)
Phillip Harrison (Executive Director: Development Planning and Urban Management)

PROPERTY OWNERS
Brian Miller (Ithemba Properties including The Metropolitan and Plumridge)
Sandy Barnes (Jozi Housing including La Rosa)

PROPERTY OWNER AND SOCIAL HOUSING MANAGER
Taffy Adler

MANAGING AGENTS
Andrew Schaeffer (Trafalgar)

FORMER OWNERS OF SECTIONAL TITLE UNITS
Louis Levine
Cyril Brayton

TENANTS
Maibo Dobokwane (The Metropolitan)
Harriet Batleng (The Metropolitan)
Miche Collins (Plumridge)
Freddy Aphane (Plumridge)
Prince Ndhevu (Plumridge)
Robert Manasoe (Plumridge)
Bongani Maseko (La Rosa)
Kgopotso Moonyemohonoe (La Rosa)
Prince Dube (La Rosa)
Kayaya Chumbe* (The Ridge)
Francois Kadima* (The Ridge)
Etienne Masingo* (Tygerberg)
Diyoka Bakama* (Ponte City)

OTHERS
Paul Jackson, Housing Financier TUHF
Stewart Wilson, Centre for Applied Legal Studies and COHRE Researcher
Sue Parnell, Urban development specialist
Tanja Winkler, Planner with a special interest in Hillbrow
Carien Engelbrecht, Urban development specialist and inner city retail financier
Babalwa Nxumalo*, NGO employee working on rehabilitation of sex workers
Kgopotse Nakin, NGO employee working on rehabilitation of sex workers
Gayatri Singh, Urban migration specialist
John Spiropoulos, Urban Management Facilitator (Kagiso Urban Management)
Josie Adler, Neighbourhood Improvement District Facilitator

* Not their real names
APPENDIX B:

AFFORDABLE RENTAL HOUSING THROUGH SHARED FACILITIES

1 STRATEGIC THRUST

Economic Growth and Development, Housing Delivery, Service Delivery Excellence, Inner City Regeneration and Good Governance

2 OBJECTIVE

To obtain in principle approval for a pilot rental shared housing project commencing immediately.

3 SUMMARY

Globally, rapid urbanization in many cities is accelerating.

Joburg has always been a city with a large attraction for aspirant new residents who seek opportunities for a better life. Historically areas such as Hillbrow, Berea and the Central Business District have always been the first port of call for people coming to Joburg to start afresh.

The type of person coming into the city, particularly the Inner City areas such as Hillbrow, cannot be easily typecast – many different strata of society, both South African and foreign, with varying skills, different abilities to find work, different income groups, etc make up the mix of people who have come to these residential parts of Joburg’s Inner City.

The demise of Apartheid had a particularly unique and profound effect on a radical redistribution of population groups in the Inner City areas, as mainly poorer black people saw the opportunity to move and start a new life in Joburg.

Many people from the rest of Africa also migrated to the Inner City to escape political instability or poverty in their own countries. This caused a concomitant flight of more affluent residents from the Inner City to white middle class suburbia.

3.1 Problem Statement

Today, as a result of the above scenario, many buildings in the inner city remain overcrowded, and the people within them live in conditions which range from simple overcrowding to buildings where conditions are totally unacceptable from a health and safety perspective.

There is a range of people living within these buildings:

1. There are those squatting in deserted buildings with no municipal services at all, and paying no rent at all in a completely lawless situation.
2. There are those in deserted buildings paying rentals to a “building hijacker”, who usually intimidates the occupants into paying, and simply pockets the money collected.

3. There are those who live in buildings operated by unscrupulous slumlords making their money by overcrowding, and paying minimal amounts to CoJ to keep services running.

4. There are also many well managed buildings with satisfied owners and tenants.

Rentals in the 4th category above, which include those charged by the Social Housing Institutions, range from approximately R800 per month for a bachelor flat up to R2, 500 per month for a 2-bedroom apartment. In well-managed and controlled environments, the number of adult occupants per flat will range from 1 in a bachelor up to 4 in a 2-bedroom.

The problem lies in the first 3 categories above as many of the people in this grouping cannot afford even R800 per month for accommodation costs alone, as their total income is often only marginally more than this.

Most of the people in this group could be expected to contribute a maximum of about R500 per month per person, and this figure would need to include payment for electricity, sewer, refuse and water services. Thus, the way for these people to afford a reasonable and acceptable standard of accommodation is through sharing of accommodation and facilities. The problem comes when sharing leads to unacceptably high levels of overcrowding and thus to slum lording opportunities, with a resulting breakdown in basic building services, especially sewerage, electricity and water.

When the CoJ intervenes in extreme cases and obtains eviction orders against occupants in these dangerous buildings, the questions are often asked, “But where do the people go?” and “What plan has the City got for accommodating these people?” Currently, there are legal challenges being mounted by various groups against evictions unless the City can provide an alternative housing solution. This programme begins to address these issues.

The costs of developing and managing a property can generally be categorized as follows:

- Capital costs of purchase
- Capital costs of conversion or upgrade of a building to acceptable norms and standards
- Running Costs associated with management, cleaning, maintenance and security of the building
- Repayment of capital and interest, if the property is financed by a loan
- Payments of CoJ Rates and Taxes
- Payment of electricity, gas, refuse and water charges to the CoJ and its utilities, after recovering such costs from the tenants.

Income is generally only from the rental stream from the tenants.

When financial modelling is carried out for buildings to be used for this type of low-income accommodation, the rental income from the building only just exceeds the costs of financing and running the building. This means that the income from operations only just
covers expenditure. Thus, a profit driven company or individual is not interested in catering for this “low end” accommodation that meets building and environmental standards, as the financial returns on buildings of this type are very low when compared with more lucrative rentals charged to individuals in higher income categories.

3.2 Proposed Solution

It is proposed that a model of affordable rental accommodation with shared facilities be rolled out at scale, and the capital costs of this roll out be borne by local and provincial government departments, utilising available and future sources of funding.

Already there are approved programmes and policies within the National and Provincial Housing framework that can be utilised in this regard. Through these programmes subsidies are provided to assist with the capital costs of refurbishment of buildings. To date the institutional subsidy programme as well as the Provincial Transitional Housing programme have been used to provide affordable rental options. The new Social Housing policy that was approved by the Minister and MEC’s of Housing in May 2005, further enhances the policy framework available to explore affordable rental housing through shared facilities.

The buildings to be sourced for the above uses could be in or on the periphery of the Inner City. However, careful consideration would have to be given to availability of nearby services such as schools and clinics, and therefore it would be important that integration of these facilities into neighborhoods is properly planned.

The key factor to all such facilities would be that minimum acceptable standards of building, health, and safety would be required after upgrading.

The buildings would be purchased and renovated using funding from local and provincial government, including utilisation of capital subsidies under the national Housing Subsidy Scheme.

They would then be sold or leased to suitable “not for profit” management companies to be operated as a going concern, where expenditure is at least matched by income and an allowance for a controlled agreed profit margin is made to cater for maintenance and other items.

3.3 Major Constraints to roll out of the programme

There are 2 major constraints to rolling out the programme at scale – funding and management, both of which are not insurmountable:

3.3.1 Capital funding to purchase and renovate facilities

The money needed to fund the purchase and renovation needs to be viewed as long-term investment in real property assets and social upliftment, with no expected repayment of either capital or interest.
The money invested in these facilities is certainly not lost, as the facilities will assume a capital asset value which should grow in time as the regeneration of the city matures. The obvious investment in human and social capital is inestimable in monetary terms, but is obviously very significant from a political and social perspective.

As mentioned, capital needs to be obtained from Local and Provincial Government sources.

The City can remain the owner and custodian of these facilities, and regulate management of them through lease agreements. Alternatively, the City could sell the facilities with enough contractual safeguards built in to prevent the purchaser changing the nature of rental arrangements.

3.3.2 Management of the facilities once populated

Bad buildings are essentially caused by poor management, and it is therefore imperative that the management of such facilities is strictly controlled and is sustainable in the long term.

The principle to be used is that a long-term sale or lease agreement is signed with a suitable operator. After this, the operator is expected to ensure that the facility operates on a cost recovery basis plus surplus income.

Strict parameters of rental amounts to be charged, occupancy levels per room, house rules, etc form part of the agreement.

Proper and adequate pre-screening of potential tenants would also be required, to ensure that stable communities are developed, and that rules relating to Subsidy Funding are complied with.

Companies such as JOSHCO, Madulamoho [Housing Association] and the Joburg Trust for the Homeless are suggested as potential owners or operators. Their services would be procured using the City’s procurement processes. It should be noted that Private Sector Developers such as those belonging to the Property Owners and Managers Association (POMA) have also begun work in establishing similar not-for-profit management organisations to be dealt with in the same way.

3.4 Indigency Policy to assist in service costs

As mentioned the money required for purchase and renovation and the management of the facilities are the two major constraints.

A further inhibiting factor is the relatively high costs of water and electricity services to these buildings.

It is proposed that a policy that looks at subsidizing these costs in these types of facilities is formulated and accepted by CoJ.
4 POLICY IMPLICATIONS

This proposal needs to tie in with existing and future national, provincial and local housing policy.

The policy on providing subsidised water, sanitation and electricity to such facilities needs to be investigated further.

5 LEGAL AND CONSTITUTIONAL IMPLICATIONS

The necessary agreements to facilitate the transfer and rental of the properties will have to be concluded. The indigency policy would have to be amended and the necessary approvals for any budget adjustments will have to be obtained.

6 FINANCIAL IMPLICATIONS

The extent and number of units needed under such a programme is a moving target.

There is no doubt that on roll out the demand for such facilities would increase.

The budget required for facilities of this type will vary largely according to cost of purchase and the extent of rebuilding and renovation required.

It can be expected that delivery of an acceptable housing unit, with shared facilities could vary between R30,000 and R50,000 per unit at current pricing.

It is thus proposed as a first order estimate that R40,000 per unit be allocated, and that various projects catering for 1 000 new residential units be identified and rolled out as a first priority.

This would mean a total budget of R40 million, to be rolled out over a 4-year period, beginning immediately.

Because the potential exists for some empty buildings that are already listed on the Better Buildings Programme to be immediately allocated to this proposed programme, it is expected that some expenditure will occur in the current financial year ending in June 2006. The following table of expenditure over the life of the programme is proposed:

<table>
<thead>
<tr>
<th>Year ending June 2006</th>
<th>R 5 million</th>
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<tbody>
<tr>
<td>July 2006 to June 2007</td>
<td>R 15 million</td>
</tr>
<tr>
<td>July 2007 to June 2008</td>
<td>R 10 million</td>
</tr>
<tr>
<td>July 2008 to June 2009</td>
<td>R 10 million</td>
</tr>
</tbody>
</table>

However further discussions will be held with the Provincial and National Departments of Housing to investigate the feasibility of funding the project using housing subsidies.
7 COMMUNICATIONS IMPLICATIONS

None at this stage.

8 OTHER DEPARTMENTS/BODIES CONSULTED

- CoJ Finance / Treasury
- EDU
- CoJ Housing
- CoJ Legal Services

9 RECOMMENDATIONS

IT IS RECOMMENDED

1. That the contents of the report be noted.
2. That a further investigation be undertaken immediately by the Director: Housing, in consultation with the Managing Director: Joburg Property Company to identify specific buildings and operators for a pilot project, including a breakdown of the total costs involved, and to compile a further report for consideration by the Council for the approval of such project.
3. That the investigation referred to in paragraph 2 above includes an investigation, in consultation with the Acting Director: Finance and Economic Development, regarding the possible amendment of the Indigency Policy of the Council to assist with the relatively high costs of water and electricity services to the buildings to be identified during such investigation.
4. That, if necessary, appropriate savings be identified in the meantime to commence with the implementation of the pilot project once it has been approved by the Council in terms of paragraph 2 above, subject to the approval of an adjustments budget to authorise the costs of the pilot project.
5. That future funding be considered during the normal budgetary process.

(File No to be advised)
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