



SERI's ground-breaking ruling on informal settlements upgrading to benefit Spring Valley

On the 5th of April 2016, the Socio-Economic Rights Institute issued a press statement on a ground-breaking high court ruling for the upgrading of the Slovo Park informal settlement. Slovo Park informal settlement has been in existence for over 2 decades, and throughout the period the settlement has been engaging the City of Johannesburg to get municipal recognition and in-situ upgrading of the settlement. In similar trend to other informal settlements such as Spring Valley (eMalahleni, Mpumalanga), the community has been met with hostility from the government, with the municipality insisting on relocating the residents to a different settlement. SERI documents that Slovo Park residents took the upgrading initiative into their own hands and developed their own upgrading plan in terms of the Upgrading of Informal Settlement Policy. When the City of Johannesburg refused to engage them on this plan, the community, represented by the SERI, took the City to court to compel it to start the upgrading process.

THE RULING

The ground-breaking ruling (SERI Press statement, 5 April 2016) handed down on the 5th of April 2016 found that;

“... the UISP is binding on the City, and that the City’s decision “to completely ignore” the policy in favour of its own plan to evict and relocate the Slovo Park residents was in breach of the section 26 (2) of the Constitution, the Housing Act 107 of 1997, “unreasonable” and “not inclusive”.

The Judge also found that the decision was taken without any consultation, and “flies in the face of established constitutional jurisprudence regard the need [for] meaningful engagement in instances where the right to adequate housing is concerned.”

The Judge then effectively set aside the City’s plan to relocate the residents, and directed the City to make the appropriate application to the provincial Minister for Human Settlements for a grant to upgrade the Slovo Park Informal Settlement in situ.”

This ruling has long term implications on Planact’s informal settlement upgrading projects as this case clearly states that informal settlements upgrading is a constitutional responsibility of municipalities



SPRING VALLEY INFORMAL SETTLEMENT

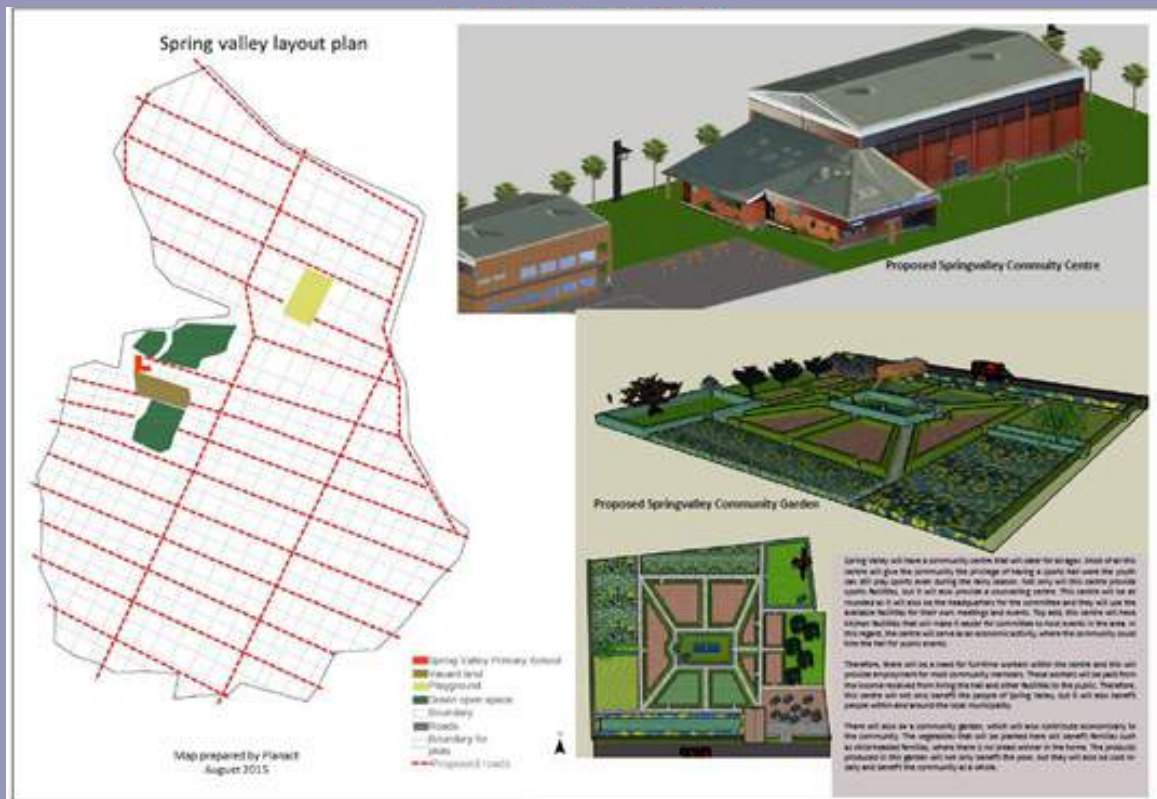


Spring Valley informal settlement has an estimated 2500 households, with a population of over 10000, and has been in existence for more than 25 years. In all those years, the community still has inadequate access to water and does not have sanitation and electricity. Of greatest concern is that the community does not have tenure of security and has constantly stayed with threats of forced evictions.



The community of Spring Valley and Planact have developed an in-situ upgrading plans for the settlement. These plans include settlement layout plans, public transport networks, social amenities and economic activities. The planning process was community-based and involved all stakeholders in the community. Involving communities in development planning is essential as it ensures buy-in, cooperation, sense of ownership, retains community fabric and, most importantly, builds social cohesion.

Proposed Designs



1: Spring Valley settlement layout plan (Prepared by Planact August 2015)

IMPLICATIONS FOR SPRING VALLEY

The eMalahleni Local Municipality has consistently rebuffed efforts to engage on the upgrading plans for Spring Valley. In a similar scenario to the Slovo Park case, the municipality insists on relocating the residents of Spring Valley to Klarinet Township, about 15kms from the city centre.

The SERI ruling will enable Planact and the community of Spring Valley to pursue three complementary avenues for upgrading;

1. The documented settlement development plans will be presented to the planning department, the municipal manager and the executive mayor of the municipality for inclusion into the municipal plans. In the (expected) event that the municipality says it does not have the budgets and accreditation for this kind of service, the plans will be escalated to the Nkangala District Municipality and the Mpumalanga Provincial Human Settlements if need be.
2. The Spring Valley development plan will be made into a formal Integrated Development Plan submission and handed over during the IDP submission process
3. In the event that the community's activities meet resistance from the municipality, Planact will refer to the SERI and Slovo Park case and litigate against the municipality to compel it to accept the development plan and implement the plan.

The ruling by the Gauteng High Court therefore is a victory that should be celebrated not only in Slovo Park, but in all informal settlements that have been struggling to be upgraded in situ. The success of the Slovo Park ruling will set a precedence to municipalities in South Africa and will empower communities to be able to challenge their municipalities.

