

# A Word Processor Based Deed Design to Facilitate Land Title Adjustment

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## SUMMARY

The paper presents a prototype deed designed for situations where paper documents are important, but transactions can be expected to occur through unofficial processes, and the title has to be cleaned up periodically. The deeds system may be maintained on word processors, which requires lower levels of information technology infrastructure and lower levels of IT support than a system run on a database. It offers an alternative option to land tenure information systems that run on a database, such as the STDm. It is envisaged that the word processor system is a more suitable strategic alternative where the critical success factors for a land tenure information system run on database may not currently exist. However, the design offers a path to a system run on a database.

There is a need for systems designed to work with what occurs on the ground, rather than what officials desire. Case studies involving door-to-door interviews in Ghana, Nigeria and South Africa have revealed that paper documents are an important artifact for landholders as one of the instruments to secure their tenure and to secure transactions in land. While field research has revealed that there are success stories where people do register transactions, in the main the manner in which people use these documents is often not what policy makers intended. People transact off-register for a variety of reasons. The consequence is off-register transactions create a mismatch between the official system and the de facto land tenure information system. It can be a very expensive process for future generations to clean up a cloudy title.

An examination of the land title adjustment process to clean up cloudy titles in parts of the KwaZulu-Natal province, South Africa, is instructive. In South Africa, they tend to be initiated by land administration authorities for development purposes. Under current legislation, cloudy titles freeze development. If the underlying title is cloudy, the authorities cannot get the permission of owners and

d neighbours owners to put in services or developments, or expropriate land for development because the de facto owner is not the registered legal owner. Land titles adjustment is a legal process where a commissioner gathers evidence about the chain of title and the chain of actual transactions, and then adjudicates who should be the rightful owner of a property. A new, clean title is then registered. A critical component of this process is that documentary evidence should be available. The Commissioner has to examine documentary evidence as well as oral histories relating to particular properties to ensure that he or she does not inadvertently extinguish legitimate interests in the land.

Currently, most deeds or titles are simple documents. They are designed with the notion that each new transaction will be registered, not with re-adjudication in mind. One way of addressing the challenge is to design a document which caters for off-register transactions and a later title cleaning process. A deed which captures the complex constellation of interests in a piece of land at the outset, captures the intentions of the interest holders as to how these interests should evolve over time, and a mechanisms for searching these documents in electronic form may make a title adjustment commissioner's work easier and possibly more robust.

The prototype deed incorporates many of the standard characteristics found on most titles or deeds. However, in addition a person creating the deed can describe or cross reference the many different interests in a piece of land when those interests are first documented. Cross references may be to other paper or digital documents, videos, photographs, maps and audio recordings. The deed also allows for key words pertaining to the different relationships to be incorporated in the documents. This should facilitate searching, data mining and social network analysis of the documents in digital form when re-adjudication occurs or to examine patterns of fraud or sharp practice.