

# A Word Processor based Deed Design to facilitate Land Title Adjustment

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*FIG Working Week  
Helsinki 29 May – 30 June 2017*

- Objectives are twofold.
  1. Describe complex constellation of interests which may be difficult to model in relational databases in a single paper document
  2. Present a prototype deed design under the following conditions
    - Paper documents are important as evidence of land tenure security and evidence of a transaction
    - Significant proportion of off-register transactions are expected to occur
    - Title has to be cleaned up periodically
    - Title may have to be cleaned up post conflict – single hard copy incorporating description of all relevant interests held by owners is important evidence

- Research programme context – goes back to 1990s and Talking Titler software design options in South Africa
- Why do registered and off-register transactions occur?
- Title adjustment is .....
- Why do title adjustment?
- Problems facing title commissioners and efficacy of title adjustment
- A Cook's tour of the design
- The Guru on the Hill

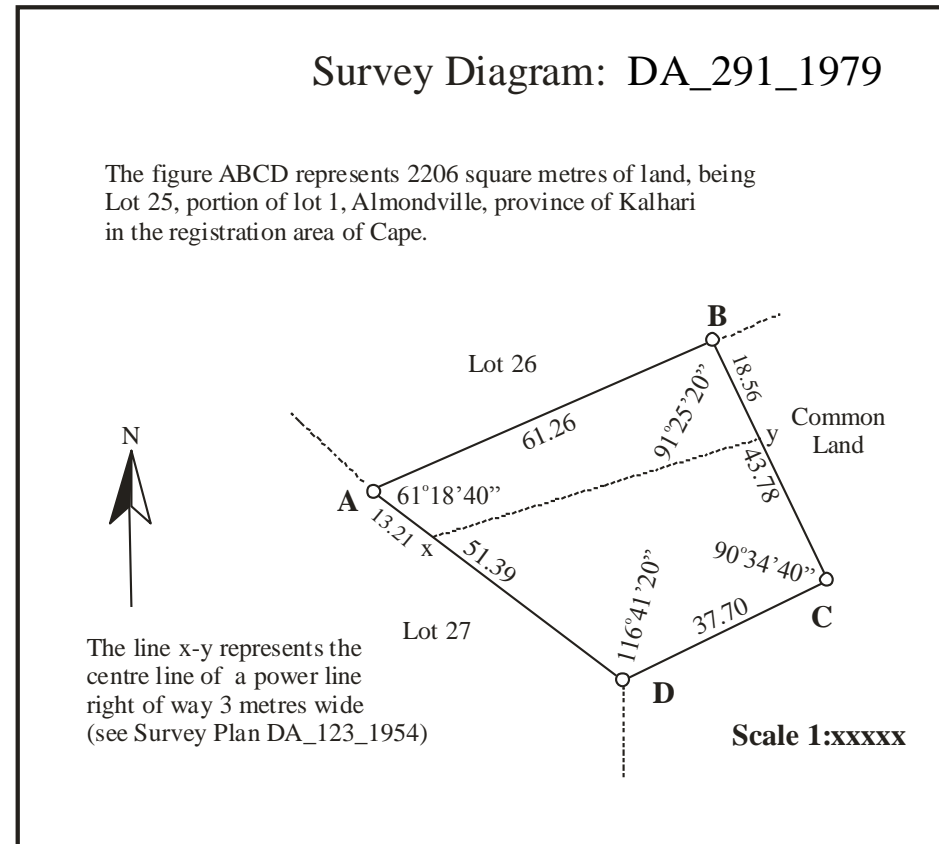
- World wide – retitling, re-adjudication is a common phenomenon
- South Africa, one of largest housing and land titling programmes. ±4 million housing opportunities; ± 3 million state subsidised houses registered in ownership.
- Will be more than 50% of residential property market
- African freehold goes back to mid 19<sup>th</sup> century in Cape of Good Hope and KwaZulu-Natal
- Somaliland – post conflict – out-copies of deeds most important – diaspora involved – fraudulent claims

- Title adjustment in Eastern Cape and KwaZulu-Natal
- Driven by state – cannot administer land or do development if title is cloudy
- Costly and time consuming.
- Commissioners will be busy for years.
- One driver of off-register transactions is family title
- Also belief that title provides tenure security and can be traded using a private conveyance – i.e. hand over the title and hand over the cash in front of witnesses.

- How do we design for this?
- What is an appropriate design given
  - Balance tension between economic interests and tenure security for the vulnerable
  - level of technological infrastructure,
  - human resources available,
  - operations management efficiency?
  - likelihood that off-register transactions will be ongoing
- Use a Word processor and paper documents – if the most suitable strategy
- Capture as much complexity as you can in one document
- Be as close as possible in look and feel of a conventional deed.
  - We don't want multiple, parallel systems of records that are not interchangeable.
  - Can be managed by the same organisation.

- Deed Identifier e.g. T123/2017/1
- Property Description
- Lot 25, portion of Lot 1, Almondville, province of Kalahari in the registration area of Cape bounded as shown on the sketch plan below
- **LOCATION AND SURROUNDING PROPERTIES**

- GPS coordinate of Midpoint: *Latitude, Longitude, Height, Geodetic Reference System.*





- This property lease was transferred for the sum of \$50,000 from James Blog ID635478003 to Jane Beatrice Doe ID 576832008, represented by Attorney John David Brown who appeared before me – signatures and stamps etc
- List of interested parties – schedule 5.
- **History / Index / Abstract of Primary Rights Holders and Subdivisions and Consolidations**

| Instrument                     | Holder         | ID Number | Date         | Comments                                |
|--------------------------------|----------------|-----------|--------------|---|
| <a href="#">TA 452 1992 3</a>  | James Blog     | 635478003 | 13 Jan. 1992 | Inherited by will<br>W456/92            |
| <a href="#">TA 876 1986 0</a>  | Joan Blog      | 228781008 | 13 Mar. 1986 |   |
| <a href="#">TA 4562 1979 2</a> | Germaine Jones | 345649008 | 29 Sep 1979  | Created by subdivision<br>from<br>Lot 1 |

# Second Schedule: Partial Rights Abstract

| INSTRUMENT                                     | DESCRIPTION  | DATE                   | Notes / Endorsements                               |
|--|--|------------------------|--|
| <a href="#"><u>CA 123 2008</u></a>             | Caveat: Family rights  | 5 May 2008             | Family rights reservation                          |
| <a href="#"><u>MA 278 2008</u></a>             | Mortgage in favour of Greenland Bank   | 5 May 2008             |  |
| <del><a href="#"><u>MA 556 1992</u></a></del>  | <del>Mortgage in favour of Hans Island bank</del>                                      | <del>13 Jan 1992</del> | <del>Cancelled 5 May 2008</del>                    |
| <a href="#"><u>SA 452 1992</u></a>             | Right of Occupation (usus) in favour of Arthur Blog                                    | 13 Jan 1992            | Cancelled 5 May 2008                               |
| <del><a href="#"><u>CA 1357 1991</u></a></del> | <del>Caveat : Prevention of Transfer</del>   | <del>7 July 1991</del> | <del>Cancelled in terms of T452/92</del>           |
| <a href="#"><u>SA 235 1954</u></a>             | Power line right of way / servitude 3 metres wide in favour of electricity corporation | 26 Feb 1954            | Created over parent lot 1. Survey plan DA_123_1954 |

## MORTGAGE file MA\_278\_2008

Over property known as lot 25, portion of Lot 1 Largeville, province of Kalhand in the registration district of Cape in the amount of \$40,000 in favour of Greenland Bank to be repaid in monthly instalments over twenty years at a rate of interest to be determined from time to time *etcetera*.

Date:

~~MORTGAGE file MA\_556\_1992~~

~~(Copy method: converted Word Perfect 5.1 file and pasted)~~

~~Over property known as lot 25, portion of lot 1 Largeville, province of Kalhand in the registration district of Cape in the amount of \$40,000 in favour of Hans Bank to be repaid in monthly instalments over twenty years at a rate of interest to be determined from time to time *etcetera*.~~

Cancelled on 5 May 2008 as per cancellation notice on original document ~~MA\_556\_1992~~.

# Fourth Schedule: Multimedia Evidence Index

| ITEM   | TYPE                | LAND AFFECTED    | DESCRIPTION AND LOCATION  |
|--|---------------------|------------------|---|
| MMP1_2007<br>MMP1_2007.Doc                         | Photographs         | Lot 25           | Photographs of interested parties listed in First Schedule part B<br>MMP1_2007 stored on directory ...  |
| MMv2_1994<br>MMv2_1994.doc                         | Video               | Region           | Video of nature and extent of pastoral over-<br>rights of grazing, access and passage in the<br>region  |
| MMV1_1966<br>MMV1_1966.Doc                         | Video               | Lots 1, 25, 26   | Video of elder Howling Wolf Jones relating to<br>floatable rights: collect bark for medicinal<br>purposes over lots 1, 25 and 26.<br>Unextinguished yet insufficient corroboration<br>to register caveat. |
| MMS1_1954<br>MMS1_1954.doc                         | Sound File          | Lot 1            | Recording of oral history of Grand Owl; power<br>line crosses sacred site.  |
| <del>MMD25_1943</del><br><del>MMD25_1943.Doc</del> | <del>Document</del> | <del>Lot 1</del> | <del>Scanned document relating to ancient first<br/>People claim.</del><br>Declared a fraud in terms of court decision<br>12345/r/t/456 dated 11-Nov-1995.  |

| Name     | ID | Relationship |
|----------|----|--------------|
| John Doe |    | Husband      |
| Jack Doe |    | Son          |
| Erin Doe |    | Daughter     |
| Ally Doe |    | Cousin       |

## Options

- **Lineage / Family Register File**
- **Description of Relationships**
- **Who has interests in the commonage, how may these interests be inherited, and by whom?**
- **Data Mining and Social Network Analysis Data**

# The Guru on the Hill: How and When to Apply

- Registration should be “suitable to circumstances” (Charles Fortescue- Brickdale 1913)
- 1. Vision and policy
- 2. Survey of communities involved (Patrick Geddes 1890s)
  - Go and get your feet dirty
- 3. Goals and objectives – very long horizon for land tenure types and record typed
- 4. Evaluate alternative strategic options
- 5. SWOT / SWOC, scenario analysis, simulations, role playing, risk analysis, political-economy scenarios, local level politics, street level bureaucracy, operations management capability, political commitment
- 6. Beware of quick wins that lead to dead ends

1. Choose a strategy / instrument most likely to create the greatest level of utility in land tenure security for those who need it most
2. Horizon - next 100 years.
3. Word processor document better suited to certain situations?
4. Easy to tie in with hand held technology