

## Proposal: Pilot Transactions Support Centre

A fundamental principle of the housing asset is the ability to use it for trade – homeowners buy and sell property, investing their income and realizing equity while they address their changing housing needs over time. In this way, housing is much more than simply shelter. It is also a critical component of household wealth, and a focus of most households’ savings. South Africa has a vibrant residential property market, which in the past 23 years has developed to serve a growing proportion of our population.

By and large, the residential transaction process in South Africa is well governed. There are clear processes, framed by legislation that both buyers and sellers can follow to find each other, effect the property transaction and realise value facilitated by registered estate agents, conveyancers and lenders. For the higher value market, it is working well and realises value for transacting parties, service providers and the state. In the lower value market, however, property transactions function less effectively: they are difficult for transacting parties to navigate, take longer than is financially feasible for these parties, create more risks, and ultimately (as a proportion of the property value) cost more. In short, established processes align poorly with the needs of the transacting parties and the overall outcome is compromised. As a result, formal resale transactions in the lower value property market are less common, participation by mortgage lenders is limited, and the potential for property asset appreciation is undermined.

Total Repeat Transactions and Repeat Bonded Transactions			
By market segment			
City of Cape Town, 2010 - 2015			
	Repeat Transactions	Total Bonded Repeat Transactions	% Bonded REPEAT transactions
Under R300K	16,373	5,967	36%
Betw R300K R600K	24,923	16,124	65%
Betw R600K R1.2M	43,881	29,161	66%
Over R1.2M	60,217	36,299	60%
<b>Grand Total</b>	<b>145,394</b>	<b>87,551</b>	<b>60%</b>

Source: Citymark, drawing on indicators from Lightstone

If the residential property market is to work effectively for the breadth of its participants, and if it is to contribute towards the asset wealth of especially its lowest income earning participants, special attention must be given to the constraints that undermine performance across these processes.

**This document sets out the motivation for, and outlines a proposal to create a pilot transactions support centre in Khayelitsha, Cape Town, to facilitate formal residential property market transactions in the affordable housing market.** The transactions support centre would coordinate and offer the range of critical services that enable households to transact formally in the residential *resale* market. In doing this, the centre would focus on making the current regulatory and administrative framework for property transactions work efficiently, in terms of both time and cost for the buyers and sellers of residential property in Khayelitsha. The centre would also offer a local focal point through which existing service providers, including various non-profit or community-based organisations that offer services that support housing and housing finance market activities could offer their services.

The pilot would focus on formalizing sales that are currently *within reach of the formal system*. In these cases title deeds exist and have not been compromised. The Centre would not attempt to resolve disputes between buyers and sellers with regard to previous informal sales. Nor would it participate in resolving eviction disputes between mortgage lenders and delinquent borrowers. This narrow focus would allow the Centre to offer a core set of services efficiently, which would in turn encourage clients to use its services, thereby establishing a new, formal norm with regard to property transactions.

Clearly, this means that the Centre would not solve all problems, and it should be clear that this is not the intention of the Centre. That said, it will encounter more complex cases. These will be documented and referred to specialist agencies, NGOs and others for resolution.

A key focus of the pilot would be to monitor and evaluate the development and implementation process, with a view to effectively scaling the pilot nationally in support of effective and inclusive affordable housing markets across the country. In so doing, this pilot would serve as a real life case study, embodying an ‘action-research’ approach that would support the development of an efficient and effective residential resale market, offering opportunities to address the key issues faced by transacting parties in this segment of the market, at the coal face.

## **1 Overall vision for the transactions support centre in Khayelitsha**

The transaction support centre would be a physical office to which buyers and sellers could come for the following services:

- Preparing the property for sale – confirming integrity of title deed, obtaining a property valuation, assessing legality of any previous home improvements
- Matching buyers and sellers, and providing advice
- Establishing the sale: preparing the offer to purchase / deed of sale and obtaining necessary certificates
- Registering the sale
- Financing the sale

In the so-called normal market, these services are provided to buyers and sellers by various entities, including registered estate agents, conveyancers, mortgage providers and originators, property developers, and so on. In addition, the City, in providing rates clearance certificates, plays a critical role in facilitating the transaction.

In the affordable resale market, however, these services are either inaccessible or inefficient, as set out below:

### **1.1 Preparing the property for sale**

**The problem:** Although affordable properties comprise a substantial proportion of the residential property market (in Cape Town, 30% of formal properties were valued at below R300 000 in 2015, and a further 17% were valued between R300 000 – R600 000), the incidence of informal sales, or the backlog in the transfer of government subsidized stock has meant that in some cases, the integrity of the title deed may have been compromised. While the extent of informal market transactions is, by nature, difficult to estimate, they are thought to be significant.<sup>1</sup>

---

<sup>1</sup> For example, a recent survey by the Development Action Group (DAG) of a project they completed in Khayelitsha in 2015 indicated that 300 of the 1500 households had sold their properties informally within 11 months of project completion. These sales would typically be

In addition, there are concerns that households sell their properties for very low values, either because they are not aware of what their properties are worth, or because they face severe liquidity constraints and seek a quick transaction.

Further, potential sellers may have upgraded their homes, without applying for formal planning approval. Likewise it is possible that within some neighbourhoods, relatively small home improvements might be able to support the realization of much better value in a sale process, especially if the unit can be improved in line with lender requirements so that the eventual sale can be supported with mortgage finance.

**The approach:** The advice office would offer a facility for potential sellers to meet face-to-face with a transactions advisor. During an initial consultation the advisor would obtain and inspect the title deed. If the title deed is not in the name of the seller, the advisor would establish what, if any, knowledge the client has about the nature of secondary sales and the whereabouts of the registered owner. Depending on that information, the advisor would explain to the client the relevant legal processes that would apply, and direct the client to key individuals or organisations that could assist. We do not anticipate that the centre itself would investigate and rectify cloudy title deeds directly, but that it would act as a referral centre to such facilities.

The advisor would also engage with the client about the estimated value of the property, and what if any, alterations or additions had been undertaken on the property and establish whether a building inspector should visit the site. The advisor would ask clients about the estimated value of the property, and share data with potential sellers about sales prices in the area as well as City valuations.

The advisor would also explore the arrears status of municipal accounts and advise clients that these amounts would have to be settled prior to any sale. Where clients qualify for indigent grants, the Centre could help clients apply to change their status and reduce arrears.

The advisor would engage with the client about their financial situation and their reason for the sale of the property. A credit check would be facilitated to establish their ability to apply for credit, and options for realizing the asset value of the house other than through its sale would also be considered.

## **1.2 Matching buyers and sellers and providing advice**

**The problem:** Low value property areas very often see property market transactions facilitated by informal estate agents who may work independently or with other formal agents. Recent research in Delft indicates that agents can charge up to 30% of property prices. This fee is negotiated between the agent, the buyer and seller during the course of the sale. While informal agents no doubt have significant local market understanding, many may not be familiar with the formal deeds registration process, key features of, and qualifying criteria for financing solutions provided by banks and other lenders, as well as subsidies offered by the State. They may therefore be unable to advise clients or support more complex transactions.

In addition, while the majority of informal agents may be honest, the participation of unregistered individuals and entities within the value chain, coupled with cash payment (see below) introduces significant risk of criminality. For instance, there are numerous reported cases of housing scams<sup>2</sup> in

---

cash sales. That research found that title deeds are **not** irrelevant, and that buyers typically have possession of the physical title deed document, but would not have worked through a conveyancer to update ownership records in the deeds registry.

<sup>2</sup> See <http://www.iol.co.za/vukani/news/upset-caused-by-housing-scam-5222083>, [http://www.groundup.org.za/article/buyers-scammed-fake-cape-flats-house-sales\\_2746/](http://www.groundup.org.za/article/buyers-scammed-fake-cape-flats-house-sales_2746/)

lower income areas, where individuals are sold properties without viewing the property, or without signing required documentation. Recent research in Delft funded by CAHF highlighted that agents are not trusted by community organisations precisely because of this risk.

**The proposed approach:** The Centre would encourage all participants in the formal transaction process to become formally registered by the EAAB, and accredited to participate as market makers. While the EAAB has an extensive learner-ship programme, current formal registration processes for informal estate agents may still not be aligned with the needs of the market, and could be optimized in line with the services they provide. For instance, the EAAB might consider a light registration process for agents who act as market makers only and who sell houses below a certain value threshold. These agents would need to be familiar with all legal requirements for a formal transaction, and would need to understand all key processes. The EAAB would also ensure that agents do not have criminal records. However, if they do not offer trust services they may not necessarily require a fidelity fund certificate as other formal agents do. The participation of the EAAB is therefore critical in creating this registration format which would be developed and tested during the course of this pilot.

In addition, the Centre could create an online platform to link buyers and sellers directly. The underlying platform could leverage infrastructure that already exists such as the affordable land + housing data centre (see [www.alhdc.org.za](http://www.alhdc.org.za)), listing services offered by Property24 and FNB's Home facilities offered to banking app customers, and incorporate features of online property sales platforms in other markets (for example, Zillow, Redfin and Realtor<sup>3</sup>). In addition to referring potential buyers and sellers to registered agents who work in the area, the centre could advise or assist buyers and seller to either list their properties on these sites, or visit these sites to find properties.

### **1.3 Establishing the sale**

**The problem:** Preparing documentation to establish the sale, including the offer to purchase, and then the deed of sale itself, is a complex process. Low-income homeowners and buyers have little experience in this process. In addition, they might find it difficult to access required certificates or might be faced with high charges in doing so.

In addition, where municipal accounts are in arrears, buyers would typically settle the amount prior to transfer in exchange for a reduction in the selling price. This creates risk for the buyer, as it is possible that transfer does not go through. At the same time, sellers might not be able to settle outstanding arrears prior to the sale. In some cases, the amount in arrears might be disputed by the seller.

**The proposed approach:**

The Centre would assist buyers and sellers with a deed of sale where required. Front line staff at the Centre would explain the process, provide template agreements and explain all the clauses in the agreement to clients.

With regard to rates clearance certificates, the City might consider providing certificates pending payment where transferring attorneys have been instructed to deduct outstanding amounts on transfer. Where accounts are disputed, or sellers are indigent the Centre would assist clients to approach the City to investigate and amend the account.

The Centre would also explore whether the property has had any structural alterations without formal planning approval. Where this is the case, lenders would be reluctant to grant a mortgage on the

<sup>3</sup> For a description of these services see <http://www.investopedia.com/articles/markets/100215/5-best-alternatives-zillow-trulia.asp>

property, as the City would be within its rights to demolish. In order to facilitate formalization of building processes, the Centre would arrange for inspectors from the planning directorate of the City to visit the property and assess the quality of the alteration. Where appropriate, the inspector might provide written confirmation that planning approval will be granted retrospectively by the City within a certain time frame. If this is not the case, the inspector should inform the seller and the buyer what steps need to be taken to rectify the situation, mediated by the advice office.

The Centre would also provide access to a list of accredited electricians who can inspect the property and provide required certificates, or quotations to fix any problems that might exist. These electricians would agree to a clear rate card and quotation process that facilitates easy comparison by clients.

#### 1.4 Registering the sale

**The problem:** The process of registering a transaction requires a conveyancer, who lodges the title deed with the national registrar of deeds. The formal registration process in Cape Town typically takes upwards of eight weeks – which is often much longer than some sellers can wait, particularly if the sale is precipitated by a need for cash.

At the same time, conveyancers typically charge in line with the conveyancing fee guideline issued by the Law Society of South Africa. On lower value properties these fees are significant and actively discourage buyers and sellers from transacting formally. According to the 2016 Conveyancing Fee Guidelines published by the Law Society of South Africa, the recommended minimum fee for residential property transfers is R4 300 for properties up to R100 000. This fee increases by R650 per R50 000 tranche up to the R500 000 price point. In addition, conveyancers typically charge other fees for obtaining clearance certificates, deeds office searches, postage and petties. As per the example below relating to a transaction where the sales price was R140 000, these can be material.

Date: 8 September 2016  
 Our Ref: [REDACTED]  
 VAT No.: [REDACTED]

**TRANSFEEE FINAL STATEMENT OF ACCOUNT**

Attention: [REDACTED]  
 Transfer: [REDACTED]  
 Property: [REDACTED]

DESCRIPTION	DEBIT	CREDIT	VAT
To Transfer Fee	4 950.00		693.00
To Deeds Office Fee - Transfer	75.00		
To Postage and Petties	850.00		119.00
To Application for Rates Clearance	230.00		32.20
To Deeds Office Search Fee	150.00		21.00
To Electronic Facilitation Fee	230.00		32.20
Sub Totals	6 485.00	0.00	897.40
VAT	897.40		
By Shortfall Due		7 382.40	
<b>TOTAL</b>	<b>R 7 382.40</b>	<b>R 7 382.40</b>	

Buyers and sellers often resort to a quicker and cheaper approach by signing an affidavit recording the sale, in front of witnesses, community leaders or at the police station. Of course, such an affidavit is not legally binding, and these transactions are not reflected on the national deeds registry. Buyers therefore have no formal recourse if the sale is subsequently disputed, and the formal titling process is undermined.

At present, in many transactions that are facilitated by a conveyancer, buyers do not make use of trust accounts, but would typically pay sellers in part or in full on signing all the documentation. The relatively common practice of transacting in this manner creates significant risk for the buyer in the

event that transfer does not go through. It also creates an opportunity for fraudulent activity, which as already noted, is sufficiently common to shape perceptions of risk in the market.

**The proposed approach:** Clients of the Centre would be required to use a trust account to facilitate property transactions. This will require that buyers and sellers understand the mechanism and why it is used. Buyers and sellers may well resist this, as it is a significant departure from current practice. Arguably, the longer the delays in the registration process, the more difficult it might be to create trust in this mechanism.

In light of this, and the extreme levels of illiquidity in this segment of the market, turn-around times on property registrations should be reduced. Ideally, it should take no more than two weeks for a sale to be registered from the time all required, verified documentation is submitted by the Centre to the deeds registry. This will in all probability necessitate that the deeds office create a streamlined business process for lower value transactions to reduce turn-around times.

In addition, costs should be reduced significantly. A useful benchmark is the standard fee provided for in the State's housing subsidy breakdown. Given the very significant required reduction in end user cost of conveyancing services it may be optimal for the City to provide these directly.

While the need to create streamlined, more efficient process is urgent, a longer term project to digitize title deeds could be implemented, leveraging new technologies including block chains. This would enable subsequent transactions to be conducted seamlessly at low cost.

### **1.5 Financing the sale**

**The problem:** Most resale transactions in low income neighbourhoods are financed with cash, generated by savings or possibly supported by an unsecured loan. Where unsecured credit is used, it is likely that better value could be achieved through mortgage finance, or even pension-backed housing loans. Because the interest rate on these loans is significantly lower than rates associated with unsecured credit, affordability of the buyer would be improved, and the potential market could increase. However, a key challenge in this segment of the market is access to credit. Many potential buyers are highly indebted and some may have compromised credit histories.

Aside from credit, subsidies are a further potential source of funding. Some buyers might be eligible for individual subsidies, or the FLISP (Finance Linked Individual Subsidy Programme) subsidy which, in line with current policy, must be tied to mortgage finance. Some estate agents (whether formal or informal) may not be familiar with subsidy policies, may not be able to assess buyer eligibility and may not understand how to link subsidies efficiently to the sale process.

**The proposed approach:** The Centre would guide buyers through the application process for end user finance. This might include a mortgage, a pension-backed loan (where this is available) or unsecured finance. During this process, the Centre would establish the credit worthiness of buyers, and refer distressed borrowers to debt counselors or other service providers who provide advice on financial management and credit indebtedness. With regard to successful applicants, the Centre could act as a mortgage originator, charging lenders a fee for successful applications. This fee would be booked as revenue by the Centre and used to fund on-going operations.

At the same time, the Centre would assess subsidy eligibility and process required subsidy application forms. Once again, it is critical that turnaround times on this process are reduced significantly. In a recent FLISP subsidy application in the Western Cape it took five months to obtain subsidy approval. The Province has indicated that the process has recently been optimized and is now significantly more

efficient. Ideally, it should take a matter to days to assess eligibility and confirm availability of subsidy funding.

Where a mortgage is registered against the property, the Centre would work with lenders to explore how bond attorney fees could be reduced, or how these could be incorporated into the bond amount to enable affordability.

## 2 Implementing the programme

It is proposed that a pilot transaction support centre be established in Khayelitsha, Cape Town, undertaken as a partnership initiative with the City of Cape Town. The City has a material interest in ensuring that property market transactions are formalized. It also has a material interest in extending sound governance with regard to property market transactions to neighborhoods where this is currently compromised.

Initial informal discussions have already been held with the City official responsible for planning in Khayelitsha, who has offered to make office space available at their current offices in Site B, and to support the Centre.

Beyond this, the programme will need to engage with various stakeholders to establish the approach and agree on participation in the initiative. Some of these are outlined below;

Function	Consultation regarding programme design	Local implementing partners
Establishing the Centre	Cities Support Programme, National Treasury City of Cape Town	City official responsible for Khayelitsha
Preparing the property for sale	Estate Agency Affairs Board City of Cape Town: planning, valuations, services University of Cape Town Department of Construction Economics	Registered estate agents Informal estate agents City planning inspector Construction engineer
Matching buyers and sellers	Estate Agency Affairs Board	Registered estate agents Informal estate agents
Establishing the sale	Local Police Department Law Society	Registered estate agents Informal estate agents
Registering the sale	Deeds Registry	Conveyancers Local police department
Financing the sale	Provincial Dept Human Settlement Banking Association / Banks	Subsidy applications officer Originations and financing officer

In order to facilitate this range of services, the Centre would need a commitment from the following entities:

### City of Cape Town

- Partnership initiative to establish the Centre in Khayelitsha
- No fee or low fee conveyancing services
- Rapid turn-around times on rates clearance certificates (1 working day)
- Rapid turn-around times on planning inspector site visits (2 working days)
- Creation of a 'warranty' process with associated documentation on alterations completed without planning approval

## EAAB

- Registration process for informal agents
- Development of a market making platform to facilitate transactions

## Police

- Referrals of buyers and sellers to the transaction support centre
- Implementation of local by laws

## Province

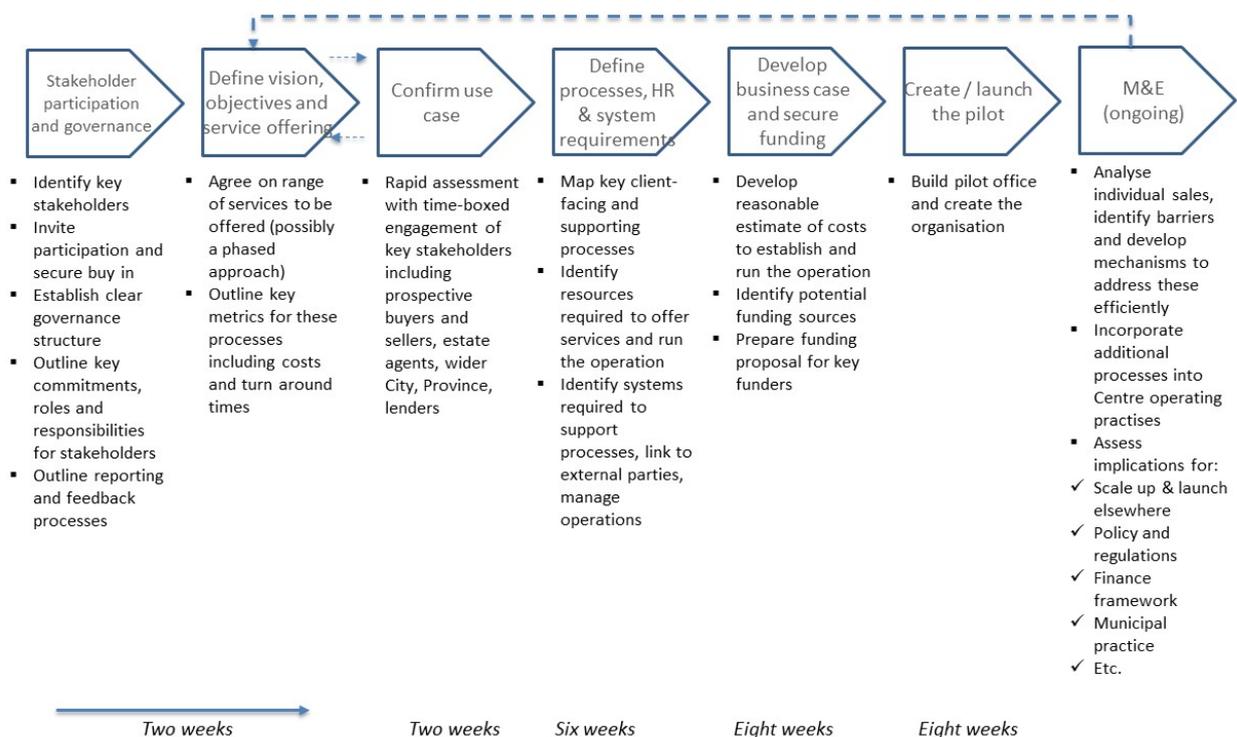
- Engagement with the HSS to test subsidy eligibility
- Rapid turn-around times on FLISP or individual subsidy applications (2 weeks)  
Deeds office
- Rapid turn-around times on property registration (2 weeks)

## Banks

- Rapid turn-around times on finance applications
- Pre-purchase / pre-sale screening

## 3 Way forward

The key first step is to test willingness by key parties, principally the City of Cape Town and the deeds office to participate in the pilot. Ideally, a partnership agreement should be negotiated with the City of Cape Town and the Cities Support Programme, to make the transactions support centre a focused initiative to improve the residential resale market for low income households. Once this has been established, a budget can be defined and programme of work will be undertaken. A high level project plan is provided below, outlining key steps as current envisaged.



### **3.1 Resourcing**

CAHF can support a portion of the feasibility phase of work through its CSP supported SA Housing Programme. However, additional support for the feasibility, as well as longer term resourcing for the transaction support centre, its operations and performance, needs to be secured as outlined in the project plan above.