

# PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

## ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 9 OCTOBER 2018

### TABLINGS

The Speaker:

1. **REPORT OF THE WESTERN CAPE DELEGATION TO THE 49th COMMONWEALTH PARLIAMENTARY ASSOCIATION (CPA) AFRICA REGION CONFERENCE HELD IN GABERONE, BOTSWANA, FROM 13 TO 22 AUGUST 2018.**

#### **Introduction**

The 49th Conference of the Commonwealth Parliamentary Association (CPA) Africa Region was held in Gaborone, Botswana from 13 – 22 August 2018. The 49<sup>th</sup> Commonwealth Parliamentary Conference Africa Region was organised under the theme “The Role of African Parliament in Fostering National and Regional Security”.

#### **Delegation**

An official delegation of three Members, namely Honourables S Fernandez, R Mackenzie and C Beerwinkel, accompanied by staff members, Ms C Ryan, Mr M Sassman and Ms N Mayambela represented the Western Cape Provincial Parliament. Hon S Fernandez was the Leader of the delegation. The delegation left for Gaborone on Wednesday, 15 August 2018 and Hon Fernandez and Ms Ryan left on Friday, 17 August 2018. The entire delegation returned on Saturday, 25 August 2018.

#### **Friday, 17 August 2018**

#### **Official Excursion Day**

The Western Cape Provincial Parliament’s delegation formed part of the tour group which attended the Culture Day in Boatie, at Tash’s Garden, where various cultural groups and artists performed cultural activities for all delegates.

## **Saturday, 18 August 2018**

### **Official opening ceremony, Sub Regional Meetings, CWP Conference and Welcome Dinner of the 49th Annual Commonwealth Parliamentary Association, Africa Region Conference.**

The conference was officially opened by the Vice-President of the Republic of Botswana, Hon Slumber Tsogwane. In his opening remarks, Hon Tsogwane urged the conference to keep in mind Africa's Agenda 2063 Strategic Framework and especially its aspirations of being an Africa of good governance, democracy, respect for human rights, justice, rule of law of being a peaceful and secure. He added that issues of security, by their nature, required concerted efforts. Hon Tsogwane reminded delegates that as pivotal democratic institutions, parliaments had a much bigger role to play in terms of providing direction and fostering and promoting international security.

#### **Sub Regional Meetings**

The Sub Regional meetings representing East, West, Central and Southern Africa were held in different venues at the Gaborone International Convention Centre (GICC).

#### **CWP Conference**

Hon Didiza urged delegates to look at issues of conflicts and security in a holistic manner, as women, children and the physically challenged are the most affected. She acknowledged the critical role women have played in liberation struggles and the challenge that gender-based violence was to peace and security.

A presentation on Cyber bullying was done which generated much discussion. Various instances were highlighted as well as the need for training in understanding gender inequality.

#### **Society of Clerks at the Table (SoCATT) Africa Region Meeting**

The Chairperson of the SOCATT Steering Committee, Advocate Phindela delivered a report that highlighted the achievements and challenges confronting the SoCATT. Some of the challenges highlighted were as follows:

- Facilitating the review of the strategic plan of the Society.
- Enhancing sub-regional participation and reporting.
- Fulfilling the technical advisory role on support of the CPA.
- Expanding an action plan for the implementation of the Seminar resolutions and monitoring thereof.
- Implementing the role on co-option to facilitate sustained institutional memory.
- Adopting the Election Guideline for future elections of SoCATT.

After welcome remarks by the host Clerk, various presentations of papers were done and opportunity allowed for the sharing of experiences.

#### **Election of the Steering Committee was held as follows:**

Chairperson:	Ms Mbewe - Zambia
Dep Chairperson:	Mr Sialae – Kenya
Central Sub Regional Rep:	Ms Dithapo – Botswana

Southern Africa Regional Rep: Ms Mkusa - Namibia  
 East Africa Regional Rep: Ms Kambanda - Rwanda

The Chairperson, urged the incoming Steering Committee to devise solutions to sustain and build on the foundation laid thus far. He thanked the outgoing Steering Committee for its strategic guidance and ongoing support in the implementation of the SoCATT programmes.

### **Welcome Dinner**

Later that evening, the First Deputy Speaker, Hon Catherine Namugala, gave a vote of thanks at the welcoming dinner held at Poipuso Hall. His Excellency, the President of the Republic of Botswana, Mr Mokgweetsi Masisi was in attendance at the dinner. Speaking on behalf of delegates, Hon Namugala thanked the host Speaker for her leadership and acknowledged the skill and care behind the organisation of the conference. She urged delegates to utilise the opportunity to leave a legacy of sacrifice by bettering the lives of people of their respective countries living in poverty, most of whom are women, children and the aged.

### **Sunday, 19 August 2018**

#### **Annual General Meeting**

The consideration and adoption of reports were held as follows:

- (i) Report of the 75<sup>th</sup> Executive Committee Meeting reported by the Chairperson of the Executive Committee
- (ii) Report by CWP Steering Committee by the CWP Chairperson
- (ii) Regional Representatives Sub-committee Meeting by the Senior Regional Representative
- (iv) Programme, Planning & Finance Sub-Committee by the Treasurer

The programme also provided for Conference Workshops with various topics which were presented and discussed. These included topics on a parliamentary agenda for combating human trafficking and modern day slavery in Africa and the promotion of human rights; and understanding the nexus between climate change and the incidence of farmers/herdsman conflicts in Africa.

Later that evening the President of the CPA Africa Region and Speaker of the National Assembly of Botswana, Hon Gladys K. T. Korokwe hosted the Speaker's Dinner for all Speakers.

### **Monday, 20 August 2018**

The AGM further considered and adopted the reports as follows:

- (i) Proposed budget for 2019
- (ii) Consideration and adoption of the report of the Controller and Auditor General for the year ending 31 December 2019 by the Treasurer
- (iii) SoCATT report and Strategic Plan 2015 - 2020 by the Chairperson
- (iv) Consideration and adoption of proposed amendments to the CPA Africa Region Constitution
- (v) Report of the Regional Secretary
- (vi) Proposed Restructuring of the Sub-Regions (CWP and Regional Representatives;

- (vii) Proposed Roster for the top leadership positions and hosting of Regional Conferences

(A copy of all the above-mentioned reports are available on file for further perusal.)

The programme for the day also provided for further Conference Workshops with various topics which were presented and discussed. These included the topics on Elections in the context of the promotion of Regional Peace and Security; a legislative framework for the regulation of vigilante groups, private security and military companies in Africa: Country experiences and Resolutions of the 4<sup>th</sup> CPA Africa Region Youth Parliament.

Our female Members attended the CWP dinner which was hosted by the CPA Botswana Branch and CWP Convener, Hon. D Makgato at the Avani Hotel.

SoCATT Dinner was hosted by the Clerk of the National Assembly of Botswana, Ms B.N. Dithapo at the Travel Lodge.

**Tuesday, 21 August 2018**

### **Conference Resolutions**

The Chairperson of the Resolutions Committee reported on the resolutions of the 49<sup>th</sup> Plenary Session, which was considered and adopted. The resolutions of the 4<sup>th</sup> CPA Africa Region Youth Parliament was also considered and adopted.

### **Resolutions**

The 49<sup>th</sup> Commonwealth Parliamentary Association (CPA) Africa Region Conference, comprising of Parliamentarians from national and sub-national branches, committed to the ideals of the African Union and the Commonwealth, held in Gaborone International Convention Centre, Gaborone, Botswana from 13<sup>th</sup> to 22<sup>nd</sup> August 2018 having examined the theme “The Role of African Parliaments in fostering National and Regional Security”.

**Noted that** the security and protection of lives and property constitute a fundamental objective of state policy in all African countries;

**Further noted that** African Union’s Agenda 2063 is a visionary plan which also emphasizes peace building, the development of a new security architecture and the defense of the territorial integrity of African nations;

**Acknowledged that** African Parliaments have a role to play in containing old and emerging security threats by adopting robust legislative frameworks such as enhanced security budgets and effective oversight of security plans, programmes and policies;

**Emphasized that** human trafficking, forced prostitution, child labour, child pornography and modern day slavery constitute gross violation of the fundamental rights of the victims;

**Concerned that** climate and demographic changes have driven increased competition for resources between farmers and pastoralists in Africa, leading to intermittent conflicts between the two groups;

**Also concerned that** widespread outsourcing of military and security functions to Vigilante, Groups, Private Security and Military companies has occasioned grave human rights violations, unaccountable movement of large quantities of arms, military equipment and ammunitions;

**Noting that** defective electoral systems constitute a veritable threat to regional peace and security in Africa;

**Also noting that** lack of food security constitutes causes of armed conflicts in Africa;

Accordingly **RESOLVED TO:**

**a. A Parliamentary Agenda for combatting human trafficking and modern day slavery in Africa and the promotion of human rights**

- (i) **Encourage** African governments to sign or accede to international conventions, treaties and protocols relating to combatting human trafficking;
- (ii) Advise African parliaments to ratify and domesticate treaties, protocols and international conventions such as the 1926 Slavery Convention, the ILO Forced Labour Convention of 1957, CEDAW 1979, the UN Convention on the Rights of the Child 1989 and the Protocol to protect, prevent, suppress and punish trafficking in persons especially women and children 2000;
- (iii) **Urge** African Parliaments to enact laws and adopt legislative frameworks aimed at preventing and combatting trafficking in persons, modern forms of slavery, child labour and sexual exploitation;
- (iv) **Urge** African governments to establish facilities for proper counselling, treatment, care and rehabilitation of victims of these exploitative acts;
- (v) **Encourage** African governments to ensure just and effective investigation, prosecution and punishment of offenders and perpetrators of these crimes;
- (vi) **Further advise** African governments to target Immigration Services, Police Departments for capacity building and provide sufficient resources to enable them combat the menace;
- (vii) **Call upon** African Parliaments to enact legislation that will regulate the activities of International Employment Agencies that recruit workers from Africa;
- (viii) **Further call upon** African Parliaments to intervene through youth-friendly budgeting, poverty reduction programmes and legislative measures aimed at skills training, in order to proactively deal with the challenge of unemployment and the vulnerability of our youths;
- (ix) **Urge** government and non-governmental organisations to sensitise the public on the dangers of human trafficking and modern day slavery;

**b. Understanding the nexus between climate change and the incidence of farmers/herders conflicts in Africa**

- (i) **Urge** African governments to mitigate against the causes of environmental degradation by promoting ranching of cattle and water-efficient agricultural practices;
- (ii) **Encourage** African Parliaments to emulate the examples in Burkina Faso, Ivory Coast and parts of Nigeria by passing legislations outlawing open grazing, pastoral nomadism, allocating grazing corridors for herders as well as afforestation;

**c. Election in the Context of the Promotion of Regional Peace and Security**

- (i) **urge** African Parliaments to enact electoral laws that promote free, fair and transparent electoral administration, equitable political inclusivity and accessibility;
- (ii) **encourage** African Parliaments to allocate sufficient funds to the Electoral Commissions and such allocations should be made on time;
- (iii) **advise** Political parties, Candidates and all stakeholders to comply with the legal framework, discourage the culture of intolerance and political animosity and eschew the use of intimidation, coercion and violence as tools for achieving political advantage;
- (iv) **urge** the Electoral Commissions to be independent, impartial and always strive to provide a level playing field for all contestants and to encourage dialogue when differences arise;
- (v) **call upon** the Judiciary to be independent, impartial, fair and transparent in adjudicating and resolving electoral disputes;
- (vi) **further call upon** African governments to ensure that media (both electronic and print) comply with laws regulating their practice and prevent the filtration of fake news capable of triggering polarization and electoral violence;
- (vii) **encourage** International Organizations, the Media and Civil Society Organisations (CSO's) to intensify Election Observation Missions (EOMs) with a view to detecting and reporting opportunistic and fraudulent electoral practices;

**d. A legislative Framework for the Regulation of Vigilante Groups, Private Security and Military Companies in Africa: Country Experiences**

- (i) **enjoin** Africa Parliaments to establish legislative frameworks for registration, licensing, regulation and monitoring the activities of Vigilante Groups, Private Military and Security Companies (PSMCs);
- (ii) **encourage** African Parliaments to exercise effective oversight on Private Security and Military Companies (PSMCs);
- (iii) **urge** African Governments to take appropriate measures to prevent, investigate, prosecute and punish the misconduct of PSMCs and their personnel;
- (iv) **call upon** African Governments to re-affirm and strengthen state responsibility for monopoly of legitimate use of force as well as identify this as a state function that should not be outsourced;
- (v) **further call upon** African governments to invest in recruiting, training, equipping and resourcing their national standing armies and security agencies instead of outsourcing this important state function;
- (vi) **urge** African governments and Parliaments that are yet to sign and ratify the 1977 OAU Convention on the Elimination of Mercenaries in Africa, to do so;

**e. Food Security and Sustainable growth: The role of Agricultural Revolution in Triggering Economic Development in Africa**

- (i) **urge** African Governments to formulate national policies on food security which targets transition from food importation to food sufficiency and exportation;
- (ii) **encourage** African Governments to promote agriculture as the cornerstone for African development through a mix of factors, including innovations in natural resource management practices, the deployment of emerging agro-technologies, bio-safety systems, land reforms and value addition to our agricultural produce;
- (iii) **also encourage** small scale farmers to organize themselves into Co-operative Societies to take advantage of loans, government support and cost-sharing;

- (iv) **call upon** African government to subsidize farming activities through the provision of grants, extension services, market for produce, silos and storage facilities, etc.;
- (v) **call upon** African Entrepreneurs to continue establishing a variety of agro-processing industries to enhance agro-value chain; and
- (vi) **urge** governments in Africa to embark on land reforms that will encourage modern commercial agriculture instead of peasant subsistence farming.

**Unanimously ADOPTED on Tuesday 21<sup>st</sup> August 2018**

## **RESOLUTIONS COMMITTEE**

1. Hon. Sarah Adwoa Safo, MP. Deputy Majority Leader and Minister for Procurement (Ghana) – Chairperson
2. Hon Faustina Caley, MP, (Namibia) – Member
3. Hon. Beatrice Mwale, MP (Malawi) – Member
4. Hon Simai Mohammed Said, (Zanzibar, Tanzania) – Member
5. Hon. Jude Emeka Idimogu, (Lagos, Nigeria) – Member
6. Christopher Ashiekaa, PhD - Secretary

At the conclusion of the 49<sup>th</sup> CPA Region Conference Rt Hon Justin B Muturi, MP, Member of the National Assembly of the Republic of Kenya was elected as the new Chairperson of the CPA Africa Region in succession to Hon Lindiwe M Maseko, MP South Africa. The new CPA Chairperson was nominated by the Deputy Speaker of the Parliament of Zambia, Hon Catherin Namugala, MP and was seconded by Hon Kabiru Mijinyowa, MP Speaker of Adamawa Region in Nigeria.

Farewell Dinner to Delegates, Observers, Delegation Secretaries, SoCATT Members, Spouses and Accompanying persons and other participants hosted by the immediate President of the CPA Africa Region and Speaker of the National Assembly of Botswana, Hon Gladys K. T. Korokwe, held at the Gaborone International Convention Centre (GICC).

**Wednesday, 22 August 2018**

Delegates departed from Botswana.

## **2. REPORT OF THE WESTERN CAPE PROVINCIAL PARLIAMENT BENCHMARKING EXERCISE TO THE PARLIAMENT OF BOTSWANA IN GABERONE FROM 23 TO 24 AUGUST 2018.**

### **1. Introduction**

An official delegation of three Members, namely Honourables S Fernandez, R Mackenzie and C Beerwinkel, accompanied by staff members, Mr N Banderker, Mr M Odendaal, Ms S Fouche, Ms C Ryan, Mr M Sassman and Ms N Mayambela represented the Western Cape Provincial Parliament. Hon S Fernandez was the Leader of the delegation.

The purpose of the visit was to conduct a comparative study on policy and legislative framework, to build relations, capacity and knowledge between the Botswana Parliament and the Western Cape Provincial Parliament.

In Botswana the delegation was welcomed and accompanied by Mr M. Lesedi Keekae in all the meetings that were scheduled for the delegation during the study tour in Botswana, Gaborone.

### **1.1 Objectives of the visit:**

The benchmarking objectives related to the exchange of ideas and experiences in the following areas:

- Parliamentary Budgeting – where and how Parliament receives its budget
- Parliamentary Oversight Mechanisms/models used by parliament
- Code of Conduct for Members
- Members' Ethics
- Members' Facilities and Parliamentary Support for Members' Constituencies
- Parliamentary matters in respect of the role of the Speaker in Parliament and the Speaker's role in the community

## **1. Background information on the National Assembly in Botswana**

The Parliament of Botswana is located in Gaborone the capital city of Botswana. It consists of the President, the Speaker of the National Assembly, 57 elected Members of the Parliament and four specially elected Members. Each Member of Parliament is elected to represent his/her own constituency around Botswana. Elections are also held every 5 years.

There is also a lower House, which is called Ntlo Ya Dikgosi, which serves as an advisory body to Parliament. It is made up of 35 Members. Each Member is represented on the Tribal Territories of Botswana.

**Thursday, 23 August 2018**

### **3. Welcome and introduction of programme by the Deputy Speaker of Botswana: Hon Kagiso Molatlhegi, MP**

The delegation was welcomed by the Deputy Speaker of Botswana. He gave a short background of how the Botswana Parliament is structured and its processes. He further stated that the composition of the National Assembly, comprises of the President and the Members of the National Assembly. The Botswana Parliament does not have the provincial structure as the South African Parliament does. He mentioned some of the projects that are underway as they are busy developing an interaction platform for Members and the electorate which is called Botswana Speaks. It is a digital way in which the public can communicate with the Members of Parliament. He also highlighted some of the challenges faced by their Parliament, which includes the induction process of new Members, as experienced Members who leave and new Members are appointed. Another challenge is the gender issue in Botswana as there are not many women elected as parliamentarians. Out of the 57 elected Members, five are women and they are nominated by Parliament. The Botswana Government has a Gender Affairs Department.

The Deputy Speaker highlighted that constituency offices will be visited on day two of the Programme. He further stressed the neutral role Members play as political appointees in their constituencies. Constituency officers are paid for by Parliament and the constituency offices serve all citizens, and is not affiliated to a particular political party.



An opportunity for interaction and questions were allowed, during which various questions were posed from both delegations as part of the sessions.

The Speaker applauded the staff members of the Botswana Parliament who were assisting during the 49<sup>th</sup> CPA Africa Region Conference and enquired whether the staff received protocol training.

### **3.2 Meeting with the Committee Chairperson of Rights and Privileges – Hon H Nkaigwa, MP**

The Mandate of the committee is to consider matters prescribed by Act of Parliament. Any matter relating to conduct in and outside of parliament is attended to by this Committee. He mentioned that there are 57 constituencies. The ruling party has 37 seats and opposition parties have 20 seats in Parliament. He further stated that the salaries of Members are not very good, although there has been a recent improvement for members. The Members are provided with accommodation at the Parliamentary Village with their families. They are afforded transportation during parliamentary sessions but during the recess they make use of their personal vehicles. Members have no provision made for a pensionable allowance. Only the President has such a provision allowed for.

### **3.3 Parliamentary Committees and Oversight, presented by Mr L Keekae**

Section 86 of the Constitution of Botswana gives the responsibility of making laws for the peace, order and good governance of Botswana. Parliament watches over and check activities of the executive and provide secretarial services assisted by the Research Unit. Types of Committees that the Botswana Parliament has are Standing Committees, Portfolio Committee, Sessional Select Committees and Special Select Committees, including Ad hoc Committees. These Committees perform functions of the House and do its work based on the Standing Orders. The Committee Section has 12 Portfolio Committees, 11 Standing Committees and 7 Committee staff members. The SCOPA Committee is chaired by a woman. They do not have an oversight model but rather use oversight tools, including:

**Pro-active oversight:** Where Members are the eyes of the community. They do the work in their constituencies and assisted by portfolio committees who do their work by getting the public to comment on legislation and pending budgets. Secondly they facilitate public participation exercises over the proposed department budgets they oversee; and

**Retrospective oversight:** This is the review and evaluation of the oversight function, where portfolio committees engage with the reports on the activities of departments and assess and evaluate the activities in terms of the strategic plans.

### **3.4 Corporate Services, Members' Privileges and Constituency Support, presented by the Deputy Clerk: Mr L Gaolalwe, Mr Sephepe and Mr Kabecha**

The Speaker does not form part of the Executive of Ministers. There are 18 Ministers and seven Assistant Ministers. There is a Business Advisory Committee which agrees on the timing allocations for political debates.

The parliamentary cycle is guided as follows:

Normally there are three meetings in a session.

- The first is the November Meeting, the official Opening of Parliament, that starts with the State of the Nation Address: November
- The second Meeting is the Budget Meeting, where the Budget process runs from February to April
- The third Meeting is a General Meeting, which runs from July to August. During this Meeting the general business of the House is discussed;
- Parliamentary Break (Recess) between August and November

Procedural staff facilitates the swearing-in of the President and Members, the election of the Speaker and Deputy Speaker, and the endorsement of the Vice President.

Support to constituencies includes a desktop and MPs are given an option of a laptop or tablet with free Wi-Fi. Recordings were done using an analog system and now there are digital recording services.

### **3.5 Member's facilitation: Library, Information and Research Services – Mr Lengwadibe and Mr Dineo**

The Research Section has a small staffing capacity, with three full time researchers, three interns and three librarians. The Section is also in the process of developing a Research Policy Manual.

- *Research functions, services and products, guiding principles to provide – services to MP's*
- *functions are generalised into topics*
- *Offer summarised legislation to MP's*
- *Motion packs to assist debate issues*
- *Information and briefing notes*
- *Due to budgetary constraints, they cannot do field research*
- *Information is factual, nonpartisan and objective*
- *Services offered on a first-come-first-served basis*
- *Timelines are negotiated with MP's*
- *No services are provided for constituency offices*
- *The University of Botswana also assists with research on an ad hoc basis*

Members are encouraged to use research engines instead of just Google. There is also a collaborative agreement with other institutions to provide research to Members.

Botswana Speaks is a web based platform which was bench-marked in Sweden. The purpose was to improve citizen participation and harness opportunities from technology.

It will help people to submit opinions, requests for information and constituents can vote. It also has an SMS facility. It was started in 2013. It has been a pilot project since 2013. It is a web-based platform with 2 components:

- request info; and
- speak for yourself.

It allows the constituents to submit concerns via SMS for those who do not have Wi-Fi, etc. A member is able to respond in real-time.

**Friday, 24 August 2018**

### **Visit to Constituency Offices:**

The delegation visited constituency offices of opposition parties to practically see how the offices operate. The offices are formal politically neutral offices where a Member of Parliament and the electorate can meet and discuss issues. The offices are strictly for parliamentary business and not political party business. Each Member is allocated a constituency office, including Cabinet Ministers.

Each constituency office is managed by staff, which includes an Administrator, Researcher, Secretary and a Messenger/Cleaner. The contract of constituency is tied to the parliamentary life of the Member of Parliament.

## **4 Conclusion**

The delegation successfully concluded its study tour to Botswana and thanked the Botswana Parliament and the Members of the Constituency offices that were visited for hosting the delegation of the Western Cape Provincial Parliament.

Report to be considered.

## **COMMITTEE REPORT**

**Report of the Standing Committee** on Human Settlements on its oversight visit to the Deeds Office in Cape Town, as follows:

### **Delegation**

The delegation consisted of the following members:

Maseko, LM (DA) (Chairperson and the leader of the Delegation)  
 Philander, W (DA)  
 Simmers, TA (DA)  
 Dijana, TM (ANC)

The following staff attended the oversight visit:

Jones, S (Committee Coordinator)  
 Mshumpela, N (Committee Assistant)  
 Barends, A (Driver: Security and Facilities)

### **1. Overview and background**

The Standing Committee on Human Settlements visited the Deeds Office on 28 August 2018. The Deeds Office falls under the Department of Rural Development and Land Reform. The Committee was received by Mr J Dreyer, the Deputy Registrar, Mr N Hoko, the Deputy Registration and the Department of Human Settlements.

This report highlights the key issues discussed, findings and recommendations stemming from the oversight visit. After the meeting representatives of the Deeds Office took the delegation on a guided tour of the Deeds Office facilities.

The Deeds Registration System was introduced to South Africa by the Dutch in 1652. The system has since been developed and is still used across Africa. There are numerous deeds offices throughout South Africa. Each deeds office holds a deeds registry, containing filed title deeds of all the properties in its particular jurisdiction. All the deeds registries are linked to a computer network. Estate agents can, via a computer-linked facility from his/her office, examine any title deed registered from 1980 in the country's combined Deeds Registry. The Deeds Office is responsible for the registration, management and maintenance of the Property Registry of South Africa. The following information can be sourced from the Deeds Registry:

- The registered owner of a property;
- The conditions affecting a property;
- Interdicts and contracts in respect of a property;
- Purchase price of a property; and
- Rules of a sectional title scheme.

## **1. Department of Human Settlements**

### **2.1 The visit commenced with a briefing by the Department of Human Settlements on:**

- 2.1.1 The status of the title deed backlog; and
- 2.1.2 Possible policy amendments to address the title deed backlog.

### **2.2 Key issues discussed**

The full benefits of government's Housing Programme have not been realised because a large number of houses built through state subsidies are not on the Deeds Registry. The Department of Human Settlements (the Department) reported a title deed handover backlog stemming from 1994 – 2014.

Approximately 23 municipalities serve as implementing agencies to focus on creating an enabling environment to address the title deed handover backlog. The Department appointed additional capacity eg. Conveyancers, planners and social facilitators to assist with the implementation of the Title Deed Eradication Project. The Department aims to address the historic backlog in primary subsidy houses to approved subsidy beneficiaries.

#### **2.2.1 Major causes of the backlog**

- 2.2.1.1 The National Department of Public Works and other state owned entities do not release land timeously;
- 2.2.1.2 The transfer of property to beneficiaries is prohibited due to illegal extensions to property, encroachments across erf boundaries and unpaid municipal accounts;
- 2.2.1.3 Locating benefactors is challenging as house exchanges take place, beneficiaries pass away, home invasions take place, rapid migration takes place and beneficiaries get divorced and/or disappears;

- 2.2.1.4 In other instances the subsidy is approved and the house is occupied but there is no valid deed of sale;
- 2.2.1.4 Approximately 40% of state owned houses are permanently occupied by none qualifiers through informal sales. Original beneficiaries want to reclaim ownership of houses that they have sold when contacted about the title deed handover; and
- 2.2.1.6 Permanent occupants do not always qualify in terms of the Housing Code as their financial circumstances have changed.

## **2.2.2 Interventions**

The Title Restoration Grant Business Plan (the Business Plan) was implemented to reduce the title deed backlog. The Title Deeds Restoration Grant (the Grant) was implemented to accelerate the registration of state-subsidised houses in the Deeds Office. The Grant will be funded through a reprioritisation from the Human Settlements Development Grant (HSDG). An additional R77 million in HSDG funding was transferred to the Department for title deed transfers. Progress is monitored quarterly by the National Department of Human Settlements, the Western Cape Social Cluster Audit Committee and the Department of Human Settlements.

An online GIS Web-Map based facility (the facility) was incorporated to geographically identify cases that may require primary transfers. Municipalities are now able to spatially identify property boundaries and erf numbers by accessing the facility. The facility contains the occupiers' personal particulars and indicates whether the occupier qualifies for subsidised housing. The information generated accelerates the investigative process in order for a municipality to apply the policy provided by the Department to expedite the transfer of the property.

In addition to the above, the Department has developed a process of tracking Deeds Office transfers digitally. Approximately 67 000 checks are conducted monthly. Reports are provided to the Department by an external service provider who receives the statistics directly from the Deeds Office. This system provides municipalities with concise information by which backlogs can be determined and the progress monitored. The Department's main focus is to transfer the remaining state owned houses to permanent occupant households. There are 33 554 qualifying properties in municipal ownership. The Department indicated that 7000 new title deeds will be provided to beneficiaries during the 2018/2019 financial year.

## **2.2.2 Policy amendments to address the title deed backlog**

- 2.2.3.1 A greenfields policy was implemented to improve title deed transfers in new subsidy housing projects;
- 2.2.3.2 A tribunal was established and a commissioner was appointed to deal with unresolved claims and ownership disputes; and
- 2.2.3.3 A policy was instituted to deal with the transfer of houses to current household occupants both qualifying and non-qualifying.

## **2. Briefing and guided tour of the Deeds Office**

### **2.1. The meeting continued with a briefing by the Deeds Office on the following:**

- 3.1.1 Maintaining, registering and issuing of title deeds to both the private and public sector; and
- 3.1.2 The turnaround time for the issuing of government title deeds.

### **3.2 Key issues discussed**

Once a transfer attorney has all the required documents, they are lodged in the Deeds Office, together with the new bond and old bond cancellation. It takes approximately six to seven working days for the documents to be examined from the date of lodgment at the Deeds Office.

The Deeds Offices are open from 08:00 -10:15 for lodgement of deeds. This is to ensure that all the deeds that were lodged are processed. Approximately 1 300 deeds are received per day. One deed has a 12 day delivery period. Controllers work on 38 deeds per day. Junior controllers have 24 hours in which to examine deeds. The deeds are then escalated to the Senior Examiner for further consideration. The Senior Examiner has the authority to authorise or reject a deed based on any shortcomings the deed may have. The three tier process is to ensure the quality of the examination.

Should there be no changes required by the Deeds Office and all the requirements have been met, the transaction is registered. This means that the purchaser is now the new rightful owner of the property. The new Title Deed is delivered a few months after registration.

#### **3.2.1 Challenges**

- 3.2.1.1 There is a high staff turnover and systems malfunction.
- 3.2.1.2 Further challenges pertains to locating original beneficiaries as no forwarding addresses or contact numbers are available. Notices are placed in advertisements and public places to notify the beneficiaries in the hopes that the beneficiaries contact the Deeds Office.

### **3.3 Concern**

Mr Simmers inquired about 20 new Breaking New Ground (BNG) houses that were built on properties where title deeds have already been assigned to beneficiaries. He indicated that these beneficiaries were being unjustifiably enriched.

A request was made that Mr Simmers escalate the details of the BNG houses to ensure that the matter is investigated.

## **4. Documents Requested**

The Committee REQUESTED that the Department provide it with a report on the:

- 4.1 Title deed handover backlog per municipality; and
- 4.2 Number of problem cases received.

## **5. Acknowledgements**

The Chairperson thanked the Deeds Office officials and the Department for the presentations and for responding to their questions.