

Regional Land Claims

Commission: Western Cape

OVERVIEW

The past year saw the Western Cape office tackle some administrative challenges and settle claims which involve intricate land development options. The office engaged in negotiations with various stakeholders including the municipalities, land owners and even school governing bodies who currently own land on which restitution claims have been made. Negotiations with some of the stakeholders take a long time to finalize, and this has a direct impact on the pace at which claims can be settled.

We wish to thank all our stakeholders who worked hard to assist the office to settle claims, including the claimants and claimant committees. The contribution of our staff members who work tirelessly on the claims is highly appreciated.

The claims received by the office before the 31 December 1998 cut-off date consisted of about 80% urban claims and 20% rural claims. Many claimants in the Western Cape opted for financial compensation as they felt that they did not wish to be dislodged from their current areas of residence where they had re-established themselves as communities. Some beneficiaries felt that the financial compensation would improve their quality of life and some of them utilized the financial compensation to extend their homes.

We are pleased with the fact that a considerable number of claimants have opted for land restoration as a settlement option for their claims. In our view, land restoration is the more sustainable option even though it takes a longer time to restore land than to pay out financial compensation.

Most of the claims have now progressed to project status, such as the District Six project. Claimants will soon be returning in phases to a development project in excess of R6 billion which has been committed by the state. The vision for the District Six project is the establishment of a comprehensive development entity where commercial, educational and spiritual activities will integrate to create a vibrant urban community. In the South Peninsula, about 36 households will be returning to Gabriel Road, Plumstead as well as to the Kirstenbosch Botanical Gardens. All these will be made possible by the assistance received from the City of Cape Town. Some individual claimants have returned to Simon's Town, after ten years of waiting.

The Commission does not only view its role as returning people to residential areas, but also to return claimants to good agricultural land. A feather in the cap for the office is the return of 27 erven in extent of approximately 102 ha

purchased from six farmers, for the Ebenhaeser community in Lutzville, West Coast. A partnership agreement involving different stakeholders will be implemented to ensure that there is sustainable economic activity on the restored land.

One of the serious challenges faced by the Commission is to gain the support and cooperation of all stakeholders affected by the land reform programme towards the provision of the necessary settlement support for restitution beneficiaries in order to ensure sustainability, not only for the land reform programme, but for the country's economy. The Departments of Agriculture and Land Affairs cannot achieve success on the land reform programme alone. We need the participation of the municipalities, ward councillors, mayors, politicians, established commercial farmers, as well as other government departments.

State land is also a very huge challenge since land prices in South Africa are very high. If other government departments and municipalities who own land can assist by handing over land for free or at a low price, which is being done in some instances, we can assist our claimants quicker where land restoration is required. It is a fact that many municipalities benefited from the Group Areas Act. These municipalities now view the Commission with suspicion and in a competitive way.

Another challenge relates to the issue of keeping skilled staff on board. A substantial number of staff members left, largely due to the high demands of work in the Commission. During this year again, our staff members were required to work long hours, over weekends, travel long distances, and spend time away from their families. Training and adequate remuneration is the only way to keep experienced staff.

The task of the Commission on Restitution of Land Rights is to settle all claims which were lodged, to pay out financial compensation for those who opted for such, as well as to offer settlement support to those who opted for land and thus contribute towards the eradication of the housing backlog in the province. The year has been an eventful one. We hope that we have brought relief to those claimants who received compensation in this financial year.

Achievements

The settlement of the Tarka claim in Mossel Bay will see the return of 60 former tenants to their land. The property is on prime land which offers a beautiful view of the bay. The Mossel Bay Municipality will provide municipal services on the restored land.

The Western Cape has in the region of 599 outstanding local claims which have to be settled. As claims are nearing their conclusion it is always a challenge to settle them as amicably as possible. Administrative glitches do creep in sometimes which lengthens the time before claimants can receive their compensation. We are however always trying to minimize mistakes and learn from them in order to settle the remaining claims as soon as possible.

The office has so far settled a total of 15 500 claims since 1995. We are committed to settle all the outstanding claims as quickly as possible. We would like to thank the claimants for their cooperation and patience in this regard.

Challenges

- The issue of untraceable claimants remains one of the challenges which hamper the processing of all the outstanding claims in the office.
- The high staff turnover is negatively impacting on the pace at which the office is able to process claims due to the loss of experienced staff members.
- The workload of staff members will always remain a challenge due to the fact that the restitution process is labour intensive and involve complex processes that can be taxing on both the officials and the claimants involved.
- The Post-Settlement Support & Implementation unit is continually grappling with the challenges of getting restitution projects included as part of the municipalities' Integrated Development Plan (IDPs).
- Negotiating through the State Land Disposal Committee: Western Cape for the release of state land for restitution purposes remains a challenge due to the high level of demand for housing in the Province.

HIGHLIGHT ON SIGNIFICANT CLAIMS SETTLED BY THE OFFICE

TARKA CLAIM

On 9 August 2007, the Commission together with the Mossel Bay Municipality and the Tarka Claimant Committee signed a Memorandum of Agreement as part of the settlement of the Tarka claim. Some of the 257 former tenants requested restoration in Tarka while 160 have opted for financial compensation.

In terms of the agreement with the Mossel Bay Local Municipality, the Municipality will make provision for the development of housing for the 60 claimants who have opted for a housing development, in the Municipality's IDP plans. This will include the facilitation of construction of roads, water reticulation and any other services that fall within the Municipality's jurisdiction.

Each household that has opted for financial compensation for their tenancy rights was offered the standard settlement offer of R38 984.00. A total award of R6.2 million was allocated as financial compensation for the 160 households that have opted for financial compensation, 37 claims are still being processed by the office. Approximately 1 300 individuals form part of the beneficiaries of the settlement of the Tarka claim.

Tarka holds great significance for those who were dispossessed of their land rights, as well as the broader members of the Mossel Bay community. Tarka's origin dates back to 1898 when fishermen moved to the area. During that time the area was known as "New Rush", the only demarcated area for coloured people. When forced removals took place in Mossel Bay central from 1961 onwards, the people were moved to Tarka which was at the time an unserviced area with no social or physical infrastructure. From 1970 onwards, racial boundaries divided the commonage, making provision for members of the coloured and white groups. As a result, some claimants were again removed from the white group area. The coloured people were moved to a new location. Some people were compelled to move to "The Valley", an area created in terms of the group areas legislation. Some of the people opted to move to the surrounding towns instead.

The Deputy Minister for Agriculture and Land Affairs Advocate Dirk du Toit, the Chief Land Claims Commissioner Mr Thoziz Gwanya together with the Regional Land Claims Commissioner for the Western Cape, Ms Beverley Jansen were part of the participants during the celebration ceremony.

EBENHAESER

In 2005 an agreement was concluded between the Department of Land Affairs and the Ebenhaeser Land Claim Committee regarding the allocation of a total amount of R100 million which would be released over a five year period, towards the settlement of the Ebenhaeser claim. The settlement of the Ebenhaeser claim will benefit a total of 1 700 verified households.

The community will benefit from the restoration of approximately 3 485 hectares of land. Part of the land in extent of 1 566 hectares is currently owned by about 53 different private owners. The alternative state land

earmarked for the settlement of the claims is in extent of 1 919 hectares.

The 264 allotments which are currently owned by the 53 private owners are utilized for agricultural purposes. As part of the settlement of phase 1 of the this claim, an amount of R14.5 million has been approved towards the purchasing of 27 agricultural erven from six private landowners, measuring in extent of 102 hectares. The settlement of the Ebebhaeser claim is in line with the Memorandum of Understanding signed by between the Department of Land Affairs and the claimant community. Restoration of the land will take place in phases that are feasible to the state and sustainable for the project.

The office of the Regional Land Claims Commissioner in the



Some of the community members during the Tarka settlement ceremony held in the D'Almeida Community Hall in Mossel Bay.

Western Cape has consulted with the Provincial Department of Agriculture and the Department of Local Government and Housing with regard to the appointment of a service provider who will be responsible for the interim management of the 27 restored properties, until such time that the land is transferred to the beneficiaries.

ROOIKAMP TENANCY CLAIM

The Rooikamp claim was lodged in respect of tenancy rights by the Coloured community currently residing in the Makamsig and surrounding areas. The claim was lodged by the “Grondeise Rooikamp Vanrhynsdorp Komitee of Taakspan” on behalf of the community concerning land in the Matzikama Municipality.

The settlement of this claim affects a group of 198 households who have opted for financial compensation and accepted the negotiated settlement offer of R38 984.00 per tenancy right lost. The total amount of financial compensation approved for this claim amounts to R7.7 million which has been allocated by the state for the beneficiaries. A total of 1 562 individuals will benefit from the settlement of the Rooikamp tenancy claim.

The Rooikamp community lost their tenancy rights when they were removed from their homes in the Rooikamp Vanrhynsdorp area by the previous government in terms of the Group Areas Act, Proclamation 201 dated 8 July 1966. The community was forced to settle in the Makamsig settlement, reserved for the coloured population on the outskirts of Vanrhynsdorp, West Coast.



A partial view of the piece of land on which the Municipality is going to build houses for the Tarka land claim beneficiaries.

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Commission: Eastern Cape

OVERVIEW

The year under review presented a mixed bag of successes and challenges for the Eastern Cape office, which we managed to take in our stride. Armed with insight gained from the successes and challenges of the previous year, we proceed into the new financial year with vigour, ready to consolidate the gains of the previous year, and deal effectively with any challenge that we may encounter. During the year under review, the office focused more on refining our techniques in fast-tracking the settlement of all the outstanding claims in our province. We have managed to settle a significant number of claims and are currently left with approximately 555 claims that are still outstanding.

For us it is always a pleasure when claimants choose land restoration as an option regarding the settlement of their claims. We always do our best to educate claimants about the different options available to them, including the value of land as an economic resource that can be handed down to future generations. It is always fulfilling to witness the transfer of land to beneficiaries. It gives meaning to the work that we do. Claimants are now beginning to see the importance of choosing land as a settlement option. This is evident in the nature of the claims that we have settled this year. We encourage our teams to work hard in order to maintain the momentum and ensure that the restitution process in the province contributes meaningfully to the government's 30% target for land to be transferred to black people by 2014.

ACHIEVEMENTS

The settlement of the North Pondoland community claim and the Caguba community claims have benefited a large number of individuals in the two communities by giving back vast hectares of land to the people of North Pondoland and Caguba.

As a result of the settlement of the North Pondoland claim, the communities of Hlolweni, Mfolozi and Etyeni are now proud owners of a sugar cane plantation and 10 000 hectares of land. The Caguba community lodged a claim in respect of the whole town of Port St Johns including the surrounding agricultural farms. We are proud to have been associated with such positive community gains and are committed to ensure that the projects receive comprehensive settlement support from all the relevant stakeholders.

During the year under review, we have managed to fill all our vacant posts and this has helped us to ease the workload of our staff members, and thus contributed towards improved

efficiency in our service delivery. The relationships that we have established with the various government structures in the province over the years are starting to bear fruit, and our successful post-settlement support initiatives bear witness to this. One such example is the Chatha project in Keiskammahoek. Such is the success of this project that it was identified as one of the projects that were showcased during the launch of the Settlement Implementation Support (SIS) strategy in February 2008. We are working hard to ensure that all our projects should progress in the same manner as the Chatha project, and thus silence all the sceptics who think that the restitution process does not go further than the land handover celebration.

CHALLENGES

One of the main challenges that this office is experiencing relates to the settlement of rural claims. These claims have over the years proven to be difficult to finalize due to the fact that in some instances the land is unregistered and unsurveyed, which makes it difficult to process claims within the specific timeframes.

Another challenge emanates from the fact that most claimants from the rural areas usually leave their homes in search for employment and better opportunities in the cities, and this in turn leads to an increase of untraceable claimants as most of the people have not updated their contact details. We are hopeful that our communication team will assist us in effectively dealing with the issue of untraceable claimants.

Our office has been struggling with poor service from some of our service providers and this has created delays in our work. We are now planning to host an information sharing session with all our service providers, especially those who provide services for our core business, in order to address those issues that could be detrimental to our mandate.

The restitution process has been receiving a lot of negative publicity recently, and this could mostly be due to the fact that the media is uneducated about the restitution process, including the amount of time involved in resolving some of the claims. This challenge is further compounded by the fact that there are a few individuals within communities who seem to be pursuing their own agendas, and are keen to sabotage the land reform process by causing divisions and confusion within their own communities.

Significant claims settled by the office

North Pondoland Community Claim

The settlement of the North Pondoland claim entails settlement options that are geared to yield great economic spin-offs for the community.

Considering the history of how these communities were dispossessed of their land, it becomes evident that the settlement of this claim is not only appropriate, but that it is also long overdue. It was indeed a sad occasion when the communities lost their beneficial occupational rights to the land and had to make way for sugar cane plantations, under the apartheid government. For many years members of the Hlolweni, Mfolozi and Etyeni communities could only sit and observe the extent of wealth accumulated by other people, from the land that rightfully belonged to the communities.

The history of land conflict and ultimate dispossession of the land rights of the North Pondoland communities dates as far back as the early 1960's during the period when the betterment removals were at their highest peak in the former Transkei homeland. The people in the Pondoland area resisted attempts by the previous government to remove them from their land and this heralded the beginning of what was to be later known as the Congo War or Pondo Revolt.

It was in early 1979 when the people of Hlolweni, Mfolozi and Etyeni were all summoned to the Chief's place where they learnt that their land had been sold to a sugar cane company and as a result should vacate the land. Promises of alternative land were never kept. The settlement of this claim by the office of the Regional Land Claims Commissioner: Eastern Cape, has made it possible for the people of North Pondoland to realize their dream of returning to their ancestral land from which they were forcefully removed between 1979 and 1982.

Not only are the communities proud owners of the sugar cane estate, they are also shareholders due to the fact that all the shares that once belonged to the North Pondoland Sugar (Pty) Ltd have been transferred to the claimant communities, through the Communal Property Association (CPA). The settlement of the North Pondoland community claim will benefit a total of 4519 households from the three communities. Each household has been allocated Restitution discretionary grants as well as Settlement Planning grants valued at R3 000 and R1 440 respectively.

Compensation for the loss of land and residential structures has also been allocated to each of the 883 households who were 'originally dispossessed' of their land rights, which amounts to R42 000 per household. This adds up to a total amount of just over R37 million.

An additional financial aid of R11.7 million has been allocated to the community. This amount constitutes 25% of the current market value of the claimed land, and will be used for development purposes on the restored land.

Caguba community claim

The settlement of the Caguba community claim has brought about a significant sense of ownership and pride to the community. The restoration of land rights will enable the community to participate in the economic opportunities that currently exist in the province.

This kind of settlement clearly demonstrates the fact that restitution is not meant to be a once-off celebration, but is actually intended to leave a sustainable improvement in the lives of the beneficiaries, well beyond the celebration event. The Caguba community claim was in respect of the whole town of Port St Johns. The extent of the land under claim stretches from the west of Umzimvubu River through Pantu, Cape Hermes Hotel, Lighthouse and up to the Sicambeni Location. The Mt Thesiger Forest, the old Transkei Military Base, the Airstrip, the Silaka Nature Reserve, Bulolo Holiday Resort are some of the properties which formed part of the claim.

Following the settlement of their claim, the Caguba community entered into an agreement with the municipality, the provincial government departments as well as other significant private sector stakeholders to ensure maximum development, growth and sustainability in the economic developments in the area.

Port St Johns boasts some of the best Eco-tourism sites in the area, the land contains numerous natural resources, the sea with its marine resources, natural herbs as well as a large variety of medicinal plants.

The Caguba communities were given back 2362.0900 hectares of land against the 3473.17 ha which they had originally claimed because it is not feasible to restore certain portions of land to the community. This is due to the fact that over the years, major developments have taken place on the land which now belongs to the municipality. The state has allocated financial compensation for the community in view of the fact that they will not be able to get back all the portions of land that they have claimed.

A total of 805 households from the Caguba communities will benefit from the total award of R92.6 million approved by the state towards the settlement of this claim. The award is inclusive of Restitution Settlement Grants valued at R17.5 million.

Leightonville Community Claim

The sad story of the dispossession of land rights from the Leightonville community is a typical example of how the previous government disregarded the rights of black people in this country. The commitment of the new government to redress the injustices of the past is clearly demonstrated in the settlement of land claims for the victims of racially motivated land dispossessions.

The Leightonville community opted for financial compensation as settlement for their claim. A total amount of R8.9 million was approved for the 112 households. The settlement of the Leightonville claim will benefit a total of approximately 900 individuals from the community who have patiently waited for their claim to be settled.

The claim is in respect of various erven in the area now known as Ginsberg in King Williams Town, in the Amatole District. The forced removals occurred as a result of the Group Areas Act and the Urban Areas Act No 25 of 1945. The claimants were initially forcefully removed from the Brownlee Location between 1939 and 1940 and relegated to Leightonville, an area which was occupied mostly by black communities. The community did not receive any compensation for their loss resulting from the forced removal. To make matters worse, the area to which the community was forced to relocate did not have enough houses to accommodate all the members of the community. The result was that some of the community members had to rent and became tenants in other people's homes.

As if they had not suffered enough, the community suffered yet another blow when Leightonville was proclaimed as a Black Community area by the previous government in 1957. As a result, the Coloured people had to leave the area and relocated to other places such as Breidbach and Shornville, which are also situated in King Williams Town. Other families from the Coloured community moved as far as East London, Port Elizabeth, Cape Town and Johannesburg.

The settlement of this claim brings closure to a painful history of humiliation in the lives of the members of the Leightonville claimant community.

Mazangweni Community Claim

Research shows that this community lost their land rights as a result of racially discriminatory laws and practices between 1958 and 1960. It was around that time that the previous government embarked on "soil conservation" and "agricultural rehabilitation" programmes in the district of Ngqeleni, which culminated in the complete removal of the Mazangweni Community from their land. The community did not receive compensation or any form of assistance from

the government in return for their land.

As a result of the forced removal, the 162 families suffered the loss of land measuring in extent of 1 627 hectares. The community has opted for financial compensation instead of land restoration, as they are not prepared to relocate at this stage in their lives. An amount of R61 957.31 was allocated as financial compensation in respect of the loss of land rights and access to residential and arable land, for each of the 111 originally dispossessed households. In addition, the Van Der Henry Anthony family household was allocated an amount of R141 957.32 for their loss. The family suffered greater loss due to the fact that their property was worth more than that of the other community members at the time of the dispossession. The total financial compensation allocated for this claim is R6.9 million.

Double Drift Community Claim

The Double Drift community was dispossessed of their rights in land in 1936 when the Victoria East District was declared a released area in terms of the Trust and Land Act No. 18 of 1936 and the Bantu Act of 1971. The area from which the community was forcefully removed was ultimately proclaimed a game reserve in 1984.

A total of 264 originally dispossessed households and their direct descendants will benefit from the restoration of 13546.4783 hectares of land as part of the settlement of their claim. The resolution of this claim brings hope to approximately 1381 individuals who will benefit from the economic development initiatives emanating from the project.

The community has undertaken to maintain the current land use for conservation purposes. The beneficiaries will now become part of all development ventures taking place on the game reserve, and the land shall be co-managed in terms of Section 45 of the Provincial Parks Board Act No.12 of 2003 and Section 42 of National Environmental Management Act No. 107 of 1998.

The 264 originally dispossessed households will be awarded a total amount of R6.6 million as compensation for the loss of residential land and structures as a result of the dispossession. In addition, a total amount of R1.7 million has been approved as Restitution Settlement Grants (RSG) for the community. The state has also approved an amount of R5.2 million as development subsidy for the community. This brings the total cost of the settlement of the Double Drift claim to R13.68 million.

Prior to the dispossession, the claimant community stayed on the farms as labour tenants. They had mud houses, cattle, sheep and goats that they kept at the farms. Before the

claimed land became a game reserve, it belonged to a white farmer known as MT Knott who used the land to graze his livestock. The black families who resided as labour tenants on the property, were effectively managing the farms.

Mr Knott later donated all his properties to the World Wildlife Organization (WWO) towards the establishment of a game reserve. He did this to demonstrate his protest over demands by the then government that white farmers should be removed from that area so that the land could be incorporated into the Ciskei Homeland.

The donation of the land to World Wildlife Organization did not take into consideration the labour tenants who were staying and using the land. The community lost out as they were evicted from the land. Between 1984 and 1990 notices of the impending removals were issued to the labour tenants informing them that the area was to be a game reserve. The claimant families were transported by trucks and dumped in near-by villages where they had to look for land to stay. They were not provided with alternative land or any type of assistance to re-build their houses. The Double Drift community is now delighted to have their land rights restored to them.



Minister for Agriculture and Land Affairs, Lulama Xingwana and mister Mzolisi Mthakhathi, Mayor of Port St Johns Municipality during the Caguba hand over Celebration.



Part of the land claimed by the Caguba Community.



Chairperson of the CPA Mr ATS Mlenzana and other beneficiaries during the North Pondoland land hanover celebration.