

Law and Policy Implications of Multimedia Land Records The Talking Titler Project

Michael Barry &
 Khaleel Khan

Applicability of Multi-Media Land Records

- Any situation where conventional titles are inadequate or inappropriate.
 - informal settlements
 - post-conflict situations
 - land restitution claims
 - Tenure cannot be modelled adequately by written records (e.g. family tenure, rural development projects)
- Situations where cultural heritage forms an integral part of the land tenure system and is being lost
 - customary societies

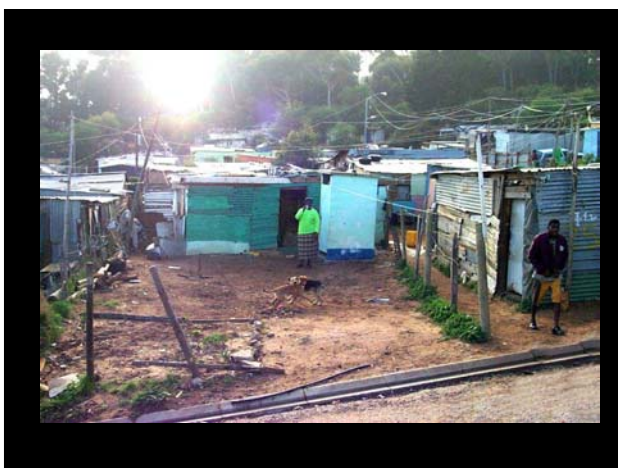

Usefulness of Multi-Media Land Records

- Video and sound can be played back to beneficiaries in their own language
- The objects and human relationships underlying a tenure system can be captured on video, in sound files and still photographs – holistic in that all the detail is there
 - at least, ideally it should be there!
- Legalistic view - difficult to overturn agreements if what you have said can be played back to everybody!
- Data capture process is likely to generate a lot of attention. The “community” will witness what you say!

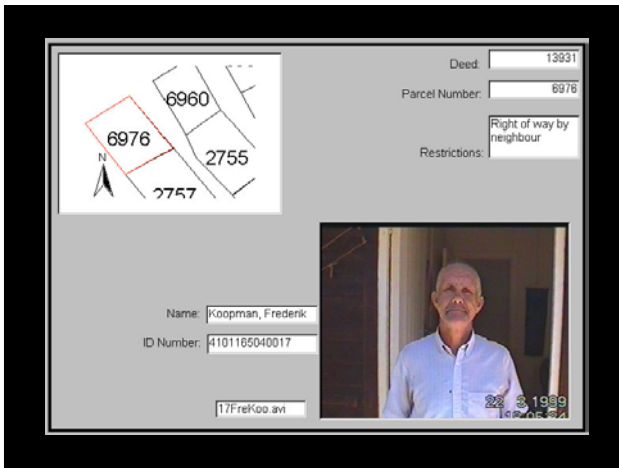
Nowadays multi-media records are technically feasible and in some ways inexpensive



Imizamo Yethu Settlement - Cape Town

Elandsbloof Land Restitution Case



Policy Issues

- Policy and legal vacuum as the system has not been applied in a legal sense – but there are isolated instances where videos have been used in land administration and dispute resolution
- Experience in informal settlements suggests policy develops at the local level anyway, irrespective of state policy – acceptance of video is important
- Hierarchy of evidence issues
 - Video captures both boundaries and social relationships
 - Conventional hierarchy classes not as clearly distinct

Legal Guidelines

- Video must be authentic, accurate and complete
- Video evidence is hearsay evidence – it cannot be cross examined
- Editing can only be done to omit superfluous material
- Recording must be used in its entirety
- Sound track is important
- Parties involved must verify the recording

Opportunities & Challenges

- Digital video does not degrade
- Digital video lends itself to editing and therefore fraud
- Watermarking and digitally encrypted signatures are the current methods being developed
- What is the original record?
 - easy to copy digital files
- With land tenure one needs to edit the recording, verify it with the parties involved and “authenticate” the clip in the field.

GEOMATICS
PROVIDING PRODUCTS

UNIVERSITY OF CALGARY

Irrespective of the problems that may be encountered with laws of evidence, multi-media provides evidence that would not normally be available and thus we argue that such a system is likely to reduce the likelihood of cases coming before the courts