

Strategic Legal Remedies for Governing Problematic Inner-City Properties and Problem Buildings in South African Municipalities

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In this chapter, the legislative context and legal framework that authorise city governments and municipalities in South Africa to deal with the owners and manage problematic inner-city properties and buildings have been analysed. The research aimed to provide senior municipal managers with remedial instruments on how to deal with the owners and how to manage problematic inner-city properties and buildings. The study was conducted at the Nelson Mandela Bay Metropolitan Municipality in the Eastern Cape, South Africa. The researchers also leaned on best practices as applied in the City of Cape Town Metropolitan Municipality, and made observations in other South African cities such as Durban and East London. The researchers followed a qualitative approach, where regulatory and textual content analysis resulted in the research findings, which were presented in the form of the national regulatory framework and strategic remedial legal options. The powers of South African cities and municipal governments to legally manage the challenge of inner-city problematic properties and buildings are derived from the Constitution, national legislation, provincial legislation and municipal by-laws. It has been found that introducing precinct-based city improvement districts, where several interventions are implemented rigorously and programmatically, is the most effective way to address the problem of buildings and decay issues. An inner-city turnaround programme – incorporating the implementation of legal remedies – could yield substantial benefits, including economic development, tourism development, property investment, increased tax income for municipalities, job creation, and the creation of smart and innovative inner cities.

Keywords: Public sector programme management, Problem buildings, Strategic remedial legal options, Inner-city properties.

Introduction

The article in essence is a presentation of the key research findings of doctoral research by the first author regarding the legal context and framework applicable when municipalities deal with property owners and programmes manage problematic inner-city properties and buildings. The second author provided additional expert public management inputs. In the study programme management by the Nelson Mandela Bay city government was evaluated as a case study, in the broader context of the phenomenon

of problematic inner-city properties and buildings in various South African cities. Whilst the inner-city decay situation and circumstances in especially Durban, Johannesburg, Pretoria and Cape Town have been observed, a detailed case study (2018/2019) has been conducted at the Nelson Mandela Bay Metropolitan Municipality in Gqeberha/Port Elizabeth, which served as the setting for the study and primary data collection.

Severe inner-city decay currently characterises some of South Africa's large cities and many towns countrywide – these cities and towns have in the past been economic pillars through the attraction of international and local tourism. Nyawo and Mashau (2019) are of the view that many historic and cultural sites in the country carry significant economic and tourism development opportunities. It is therefore of great significance to preserve and maintain these areas and monuments.

Problematic buildings often are observed in the context of general inner-city decay, which is characterised by a spike in crime, inadequate waste management, insufficient law enforcement, service delivery backlogs, a deteriorating built environment, and social ills. Without the implementation of strategic and proactive interventions, inner cities will further decay and become even more dangerous for visitors and residents. A distressed and decaying inner city is usually characterised by poverty, unemployment, crime and lack of economic investment. An effective turnaround strategy is a developmental tool to bring economic, property and tourism opportunities whilst creating direct and indirect jobs.

Local government, including city government in South Africa, is governed by national legislation, provincial ordinances and municipal regulations or 'by-laws'. Legislation and by-laws can be utilised by city governments to deal with problematic inner-city properties and buildings, the latter often a significant contributing phenomenon to inner-city decay. This article presents an exposition of constitutional, regulatory and administrative frameworks and processes to illustrate how these instruments can assist municipalities to deal with problematic inner-city properties and buildings. Important to note is that these remedies are part of a more comprehensive package of solutions that can be implemented, where private property owners, government agencies and private sector role players act jointly to address the problems of inner-city decay.

Inner-city decay and problem-building challenges have been highlighted across the country and continent as being a consequence of the unresponsiveness of municipalities and other government agencies to the service needs of communities. This neglect includes a lack of law and by-law enforcement, which results in rising criminality and lawlessness that places citizens' lives at risk (Special Rating Association Business Plan, 2019).

Legislation and the Inner-City Problem Buildings Context

The ensuing section presents a brief discussion of the foundational pieces of legislation that provide authority to local government, and guidelines for dealing with matters