

# LAWS ON TENURE SECURITY

- Our laws recognize the following categories of land:
  - a) Public.
  - b) Community.
  - c) Private .
- Most of the informal settlements are located on private or public land.
- Tenure regularization Programs have historically tended to favor individual titling.
- Currently however a new thinking has emerged that appear to seek a new tenure system that would cushion the poor from the market forces.

# KISIP PROGRAM

- This a joint program between the Kenyan government and the world bank.
- The Kenya Informal Settlement Improvement program has tried to regularize tenure security in informal settlements.
- An agreed model of tenure regularization based on communal titling was recommended and agreed upon by the government and the world bank. The recommendations are awaiting formal approval and implementation through various layers of policy, legislative and administrative action.
- The recommendations being considered under the program include:

- Informal settlements to be issued with a Community title in the name of a legally constituted community corporate body to hold in perpetual trust of the members of the community
- The rights and powers of the holder of the community title would include the right to issue land use rights to individuals;
- right manage the common areas for the common good of the community; to conserve the environment; to implement together with the County government, local authority any physical land use plan covering the area; to modify or withdraw land use rights for reason such as conflicts with the land use plan or environmental degradation.

- Individuals rights would be secured through leaseholds.
- There would be restrictions on the disposition of community land; disposition would have to be sanctioned by a majority of the members of the community.
- Individual rights would include user rights, rights to transfer interests through sale, inheritance, gift, mortgage or pledge, change of user of land, rights to subdivide/consolidate or rent subject in line with the physical development plan and the regulatory legislation to be enacted.
- The community corporate body will have representation inclusive of youth, women, elderly, special interests and different ethnic/cultural interests.

- It will be accountable to the members of the community as well as subject to statutory regulations.
- Members will draw a constitution which will guide among others, democratic election of members of the corporate body, regulation of rents, landlord and tenant relationship, dispute resolution among others.
- It is hoped that the recommended latitude of communities promulgating their own constitutions also gives community members a more direct participatory role in registration of land management committees.

- This model will allow community members to lease their land, lease their developments, issue temporary occupancy licenses within a regulated framework that favours and agrees to the definition of their community
- Residents of informal settlement will thus have to define what social economic interests define them as a community, design a criteria of admitting similar persons into their community.
- This will be guided by the Constitution and the necessary legislation that is being developed to give effect to community tenure.

# Expected benefits/results

- The envisaged benefits of this model of community title include;
- Better land management through greater control over local land use and reduced absentee ownership and speculation;
- Protect residents against forced evictions and rapid rental increases through tenure insecurity;
- Confer well-defined rights/interests to individual occupants by way of sub-leasehold or leasehold documents in appropriate settlements. This will improve sustainable investment in housing and services for the urban poor;
- Reduced risk of loss of land rights of the community as a whole, such as through abuse of power of community representatives in selling or mortgaging the land;

- Reduced fees and charges for formalising the land title with only a single one off registration fee with no attendant ad velorum registration taxes and charges;
- Reduced risk of abuse of power of those entrusted with powers to represent the community (see lessons from implementation of the Group title act and also lessons from co-operatives placed in charge of land;
- Prohibit sale of land that is held under a community title. This is to protect the project against invasion by the economically more powerful forces and gentrification;
- Promote resident ownership and control of housing;
- Keep housing affordable for future residents.



# Moving forward

- The above recommendations were agreed upon and are awaiting due implementation
- The country is developing a legislation on community land law and the same recommendations were presented to the task force developing the law.
- It is therefore hoped these recommendations will be in the said legislation and in a more polished manner since there has been a lot of discussions and thinking through the said recommendations.

**THANK YOU**