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To: All HSRC Offices

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Subject: Cape Times, 29-07-2005: Closer look at land records and race

Dear All

Attached is an article by Michael Aliber that appears in today's Cape Times.

Kind regards

Marise

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3406

DEEDS REGISTRY CONTROVERSY

Closer look at land records and race

MICHAEL ALBER

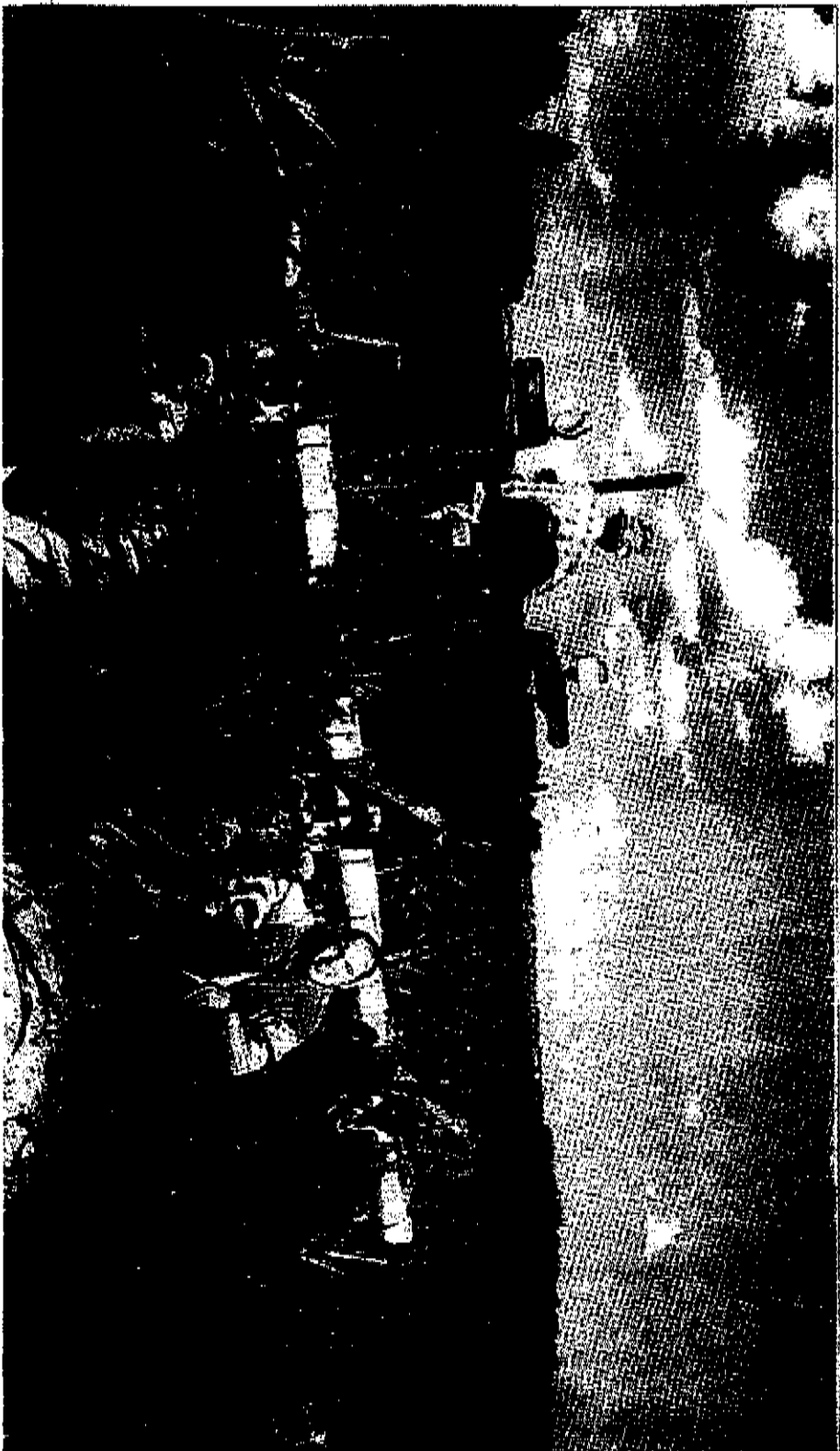
THE SUGGESTION that the Deeds Registry - the public register of land - will henceforth record the race and nationality of those purchasing land is predictably causing a stir.

Among those who suspect sinister motives, the concern relates to the government's ultimate purpose for collecting this information. But the real question is not the imagined political implications, but the practical question: what purpose, indeed, would be served by this approach?

The Deeds Registry was not created to generate data that can be analysed for policy purposes. As elsewhere in the world, the purpose is to ensure a legal record of property rights.

That said, the Registry has for a long while been used by some people for Information's sake. In particular by property valuers, who often seek to estimate the market value of a property by accessing information about comparable sales, and by estate agencies, who try to gauge trends in property markets.

Over the past several years, the Chief Directorate Deeds Registration has significantly improved the accessibility of its data, which in any event



are by law open to the public.

What it has not done, however, is to greatly change the type of information recorded. Perhaps it is just that the Deeds Directorate has not considered the other uses that its data could serve; for example, when a transaction is registered with Deeds, the municipality in which it took place is not recorded.

As a result, the Deeds data are not generally useful to municipalities wanting to estimate the value of their property tax base. But potentially, with just a bit of extra information, the Deeds data could greatly assist the entire local government system. For whatever reason, the Deeds database is an under-exploited resource.

Now comes the suggestion that Deeds should record the race and nationality of landowners. In principle, this is not a bad thing. Suspicions of sinister motives aside, when our debates are informed by data rather than anecdotal evidence or speculation, we are in a better position to make good choices.

But it is worth considering what value would be introduced by amending the information captured with property transactions to reflect race and nationality.

Let us examine the question of race. Everyone understands, though not all accept, the government's imperative to redress the country's racial imbalance in land ownership.

This is the reason for the government's land reform programme, much of which is explicitly redistributive.



CONTROVERSIAL: Land reform in South Africa is a contentious issue and one that requires accurate data to measure its success.

The question that immediately arises in respect of the Deeds proposals is, why is it necessary at all? Surely, the Department of Land Affairs (DLA), which is responsible for land reform, knows how much land has been acquired by blacks by means of its own direct interventions, just as the Department of Housing must know how many RDP houses have been built?

While it is certainly true that the DLA's data about its own land reform programme is not as good as it should be, clearly it should fix the problem directly rather than rely on Deeds information.

Even if the Deeds Registry starts to record race, it will be a blunt and simple instrument relative to what it is expected to observe: land reform transactions constitute a tiny fraction of all rural property transactions (generally less than 3% by area), which in turn are far fewer than transactions of urban properties.

Moreover, the sort of information needed to really track land reform goes far beyond the sort of data that Deeds can be expected to record. There are possibly three good reasons for amending the deeds data capture system.

Firstly, still in the vein of measuring the progress of land reform, an

amended Deeds database could assist in keeping track of the extent to which land transferred through land reform might revert to white owners. Some land reform beneficiaries may choose, after a time, to resell their land, while others may be forced to forfeit their land if they cannot service their debts.

Presently there is no formal mechanism for capturing such events, thus we do not know if they might undo the gains made through land reform, or if the land reforms are of no consequence.

Secondly, the government might be interested in knowing how much private land passes into, and out of, the possession of blacks outside of the actual land reform programme. This is indeed important to know, and the Deeds database is the ideal vehicle.

Lastly, the Deeds database could, in principle, be amended to allow for the tracking of patterns in foreign property acquisition. The question of how much land is presently acquired by foreigners, and indeed whether foreigners are driving up the land price, and thus hindering land reform, is one which is all the more emotive for lack of comprehensive data.

However, there are two important challenges and one concern that relate to the proposal.

The one challenge relates to whether the attempt to capture race and nationality would be retrospective. It is one thing to change the data capture protocol today, so that from this day forward the Deeds database has the sort of information we desire, and quite another to determine the race composition or nationality of the status quo.

The latter is a far more demanding task, especially for nationality, for eighners have been buying land in "white" South Africa (longer than blacks have). Tracking incremental changes without knowing the base would be interesting, but very incomplete.

The other main challenge is that much of South Africa's privately owned land, approximately 17%, is registered in the name of some legal entity such as a trust, communal property associations or a company, and not in the name of natural persons.

There are ways, in principle, of depicting the race or nationality of a legal entity (for example by looking at its ownership composition), but doing so would likely place unreasonable demands on Deeds. Maintaining it would simply be impossible.

As to the concern with the question of purpose and interpretation:

the use of the Deeds database to establish trends in property ownership patterns could, if conducted thoughtlessly, lend itself to further complicating the problem of as long South Africa's land reform, in by, the obsession with hectares.

From the time the RDP base (ment) was published in 1994 with from of the farm to reestablishment of agricultural land within the five years of the programme focus on hectares has remained in amount. This is generally to the a sion of more important consist tions, such as numbers of people even value.

The irony is that the called market value of all of South Africa commercial farmland represent a fraction of the value of any one metropolitan areas. Understan the trends in numbers of black ery owners and the value of thei eries that they own, be they urbe rural, will be a better indicator economic transformation that one-sided attention to hectares generally prevails now.

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