



COMMISSION ON RESTITUTION OF LAND RIGHTS

# ANNUAL REPORT

APRIL 1999 - MARCH 2000





## *Vision*

To have persons or communities dispossessed of property after 19<sup>th</sup> June 1913 as a result of past racial discriminatory laws and practices restored to such property or receive just and equitable redress

## *Mission*

- To promote equity for victims of dispossession by the state, particularly the landless and the rural poor
- To facilitate development initiatives by bringing together all stake-holders relevant to land claims
- To promote reconciliation through the restitution process
- To contribute towards an equitable redistribution of land rights

## *Values*

- Promotion of gender equity
- Just and equitable redress
- Prioritising the needs of land development
- Needs-based prioritisation
- Promotion of *Batho-Pele*



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**Foreword by:**

**Minister for Agriculture and Land Affairs**

The land restitution process has been going on for five years now. Looking back over these five past years is like a reminder of where we come from, where we are today and where we want to be in the near future. Thus, we must take stock of the journey travelled so far, a journey which is full of both joy and sadness.

Looking back we can certainly be proud of the prudence of our constitution makers, who had the wisdom to provide for the restitution of land rights of all dispossessed persons or communities, as a result of racially discriminatory laws or practices, on the one hand, while guaranteeing the protection of property rights, enjoyed exclusively by only a few White people, over decades on the other hand.



Clearly, the well-known imbalances in land ownership in our country was the most untenable situation and was always at the centre of our struggles, as it continues to be in the struggles of post-colonial countries in the whole African continent and elsewhere in the world.

I am charged with the responsibility to deliver land for development and change the structure of land ownership in South Africa, in the context of the existing constitutional and legislative framework, within which land reform is taking place, in general, and land restitution in particular.

It is nine months exactly since I assumed this responsibility and the task is awesome, yet very challenging and engaging indeed.

I have set the following as strategic goals that the Commission on Restitution of Land Rights must achieve, to bring us closer to the reality of a better life for all:

- A need to speed up the settlement of restitution claims.
- A review of the current method of calculating monetary values for the settling of claims.
- A reduction of administrative costs through closer collaboration with other relevant Departments.
- A refocusing of efforts in the settlement of rural claims.
- Restructuring the restitution process to enable the speeding up of claims.
- Communication with claimants regarding the process and the status of their claims.

It gives me great pleasure and a sense of pride to present you with this years Annual Report, noting, in particular, the exponential increase in the settlement of restitution claims since June 1999.

Slowly but surely we are getting there.

**Thokozile Angela Didiza**  
Minister for Agriculture and Land Affairs



## CHIEF LAND CLAIMS COMMISSIONER'S :OVERVIEW



*We are here to do;  
And through doing to learn;  
and through learning to know;  
and through knowing to experience wonder;  
and through wonder to attain wisdom;  
and through wisdom to find simplicity;  
and through simplicity to give attention;  
and through attention to see what needs to be done*

*Ben Hei Hei*



## INTRODUCTION

This report is written as required by Section 21 of the Restitution of Land Rights Act 22 of 1999 as amended. It is appropriate that in this Annual Report for the period 1 April 99 to 31 March 2000, we should also be celebrating five years of land restitution in South Africa. The first team of Commissioners to drive land restitution commenced their duties in March 1995. March 2000 therefore marks five years of the existence of the Commission on Restitution of Land Rights. This is an important milestone.

### Reviewing the First Five Years of Land Restitution in South Africa

The process of land restitution in South Africa has its origin in the Interim Constitution, which provided the basis for the establishment of the Commission on Land Restitution.

In 1994 Parliament passed the Restitution of Land Rights Act 22 of 1994, the object of which was: "To provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913, as a result of past racially discriminatory laws or practices, to establish a Commission for Restitution of Land Rights and a Land Claims Court, and to provide for matters connected therewith".

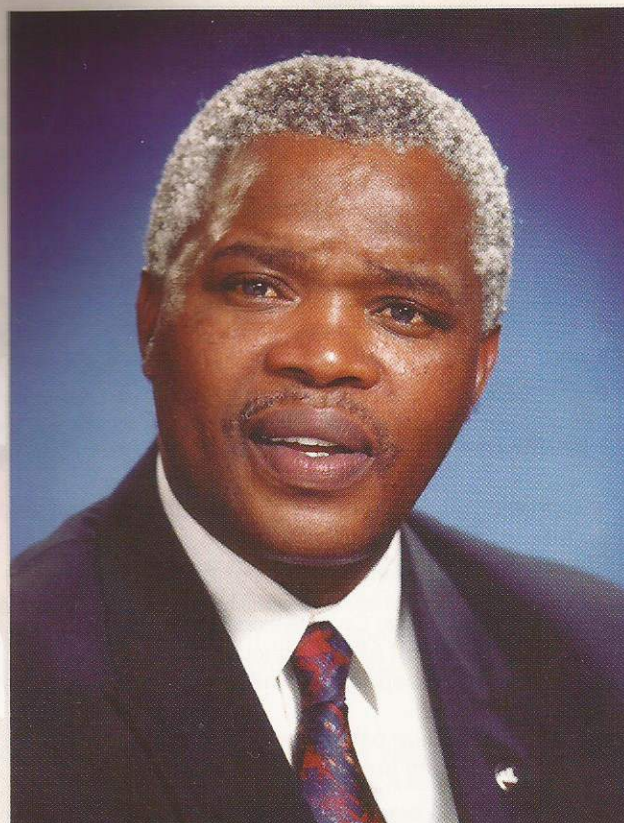
The task of the Commission on Restitution of Land Rights is to investigate, mediate and settle land claims. In the event of any disputes, the claim is referred to the Land Claims Court for a ruling. The Land Claims Court has the status of a High Court. Any appeal against its decision is handled by the Constitutional Court. The Department of Land Affairs generally supports the Commission in the execution of its constitutional and statutory mandate.

Organisations like the National Land Committee (NLC) and the Legal Resources Centre played a pivotal role in driving specific cases, doing research, writing reports, making representations to the Commission and, in the case of the Legal Resources Centre, representing claimants before the Land Claims Court. The NLC has also played an advocacy role, thus keeping the drivers of the restitution process on their toes at all times. Both organisations participated in forums where policy issues and approaches were debated, and made their respective contributions. The Commission will remain ever indebted to these two organisations and their affiliates for their valuable contributions to the mammoth task of land restitution in South Africa.

It is also true to say that organisations not directly responsible for the implementation of the restitution process have been unduly critical of the implementation as armchair critics.

Over the past five years we have learnt bitterly from the experience of Riemvasmaak, where little regard was given to what happens after people, coming from different and divergent life experiences, are restored to land. Both the Minister and the Land Claims Court now insist on development and settlement plans as a prerequisite for finalising a land restitution claim where people are restored to previously dispossessed land. This approach will ensure that the mistakes of the past are not repeated.

We are well on our way to the speedy finalisation of restitution claims. Whilst it is impossible to project at this stage precisely how long it will take to settle all 63 455 claims, it is certain that we are biting deep into the body of these claims. The estimates are that approximately 300 000 potential beneficiaries are urban and 3.6 million are rural-based.



**ADV. WALLACE MGOQI  
CHIEF LAND CLAIMS COMMISSIONER (SA)**

It is abundantly clear, by now, that it will cost the State a substantial sum to settle all the validated claims.

### Information Awareness Campaign

When it became apparent that the original deadline for the lodgement of claims, 30 April 1998, was likely to prejudice the rights of those claimants who might not have been aware of the restitution process, the deadline was extended by Parliament to 31 December 1998. An awareness campaign was embarked upon, using the print media, radio and television and other informal methods of communication. This awareness campaign was a great success as it increased the number of claims lodged from approximately 30 000 to 63 455 lodged claims - the figure with which we are currently dealing. The dissemination of information plays an important role in any successful campaign. Pamphlets and posters, printed in various languages, were widely distributed by the various NGOs, Regional Land Claim Commission offices and communities. Taxinet advertising also contributed to the action, and road shows were embarked upon at various taxi ranks throughout the country to ensure that the information reached the targeted areas.

No successful campaign can be run without one-on-one encounters with the people who really matter. In each of the various provinces, regional workshops were held with various communities, run jointly by staff of the National Land Committee and the Regional Land Claims Commission. Heritage Day and Day of Reconciliation celebrations throughout the country were targeted with great success in the various provinces, at which rallies and hand-over events took place.

### Problems and Obstacles in the Restitution Process

Over the review period, the Commission was faced with various difficulties. These problems impacted negatively on the



Commission's ability to perform its work speedily and efficiently. What was perceived as a slow pace of delivery brought sharp criticism on the Commission, with little appreciation and understanding in some circles of what the land restitution process entails. This led to a point at which the then Minister for Agriculture and Land Affairs and the National Land Committee calling for a review of restitution.

## Restitution Review Process

This review was conducted in mid-1998, and subjected the activities of the Commission to close scrutiny. The review identified various issues as causes of the slow pace of delivery and made valuable recommendations.

## Implementation of Review Recommendations

The implementation of the review recommendations included:

- Re-engineering of the business process.
- The integration of the Commission with the Department of Land Affairs, although the former would retain its separate identity as a statutory body.
- Mapping out a clear path in terms of which claims could be dealt with from lodgement to settlement and beyond
- A shift from a court-driven to an administrative process, using the provisions of section 42D of the Restitution Act. This approach has led to an exponential increase in the pace of delivery.
- Referring only a limited number of cases to court, namely disputed cases, those in which complex points of law are raised, and direct access cases, reviews and appeals.
- Dealing with cases in batches and outsourcing some work while retaining control over it.
- The use of alternative dispute resolution mechanisms to fast track the process; working on integrated service delivery at local level; reintegrating segregated cities, towns and hamlets; and balancing the interests and rights of claimants on the one hand with the priorities of government, on the other hand.

The Commission intends to double or even triple the number of claims to be settled during each year.

The Commission has identified one of its challenges as securing more funds for restitution in the current 1999-2000 financial year and beyond.

## Achievements and Challenges - The Restitution Transformation Project

Following the decisions made by the Minister on the basis of the Restitution Review of 1998, implementation of the Restitution Transformation Program made great strides in the past year. This resulted in the business procedures of the Commission being redesigned into a faster, more user friendly and creative process. The outcome of this initiative has been a spectacular increase in delivery.

The following measures have been implemented:

- More systematic registration, validation and processing of claims. Rationalisation of the restitution structures and budgets of the Commission and Department of Land Affairs.

- The batching together of similar claims in a given geographical area and pursuing of group settlements wherever possible, thereby providing the foundation for innovative development orientated settlements.
- Creative negotiations towards out-of-court settlements wherever possible in terms of Section 42D of the Restitution of Land Rights Act, No 22 of 1994.
- The involvement of all sectors of society such as local authorities, in the formulation of development-oriented settlement packages.
- The drafting of a standard settlement offer policy for urban claims which will be implemented after a process of consultation. It is anticipated that this will enhance delivery and allow even greater acceleration of claims delivery.
- The decentralisation of functions from the centre to the regional offices.
- The appointment of a Communications Co-ordinator in the CLCC office to liaise with the Regional Communication Officers will promote effective communication internally as well as externally with restitution stakeholders.
- The process of restructuring throughout the Commission has resulted in fairly tight structures in the regional offices as well as at the centre, enhancing readiness for delivery. The national office is intended to be lean and strategic in its role of supporting the regional offices in what they are meant to do, i.e. the processing and settlement of claims.

## Summary of Settled Restitution Claims

### Land Restoration

Households Receiving Land	10552
Land Cost	R 101 592 559
Restoration Order by LCC (Hectares)	173 805
Restoration Approval s42D(Hectares)	90 063

### Financial Compensation

Households Receiving Compensation	3 056
Financial Compensation Order (LCC)	R 280 330
Financial Compensation Approval (s42D)	R 76 775 713

### Restitution Total

Claims Settled as at 3 Apr 2000	3 916
Total Claimant Households	13 608
Total Restitution Beneficiaries	80 889

### Total Restitution Award Cost R 178 648 602

Free State	1
KwaZulu-Natal	418
Eastern Cape	2 270
North West	361
Western Cape	45
Northern Cape	7
Northern Province	2
Gauteng Province	811
Mpumalanga	0



The past twelve months is the period which has seen the greatest increase in the pace of delivery in land restitution in South Africa. Our detractors are quick to point out that, that which has been accomplished thus far is so minuscule and paltry as to be no success at all. These critics forget the fact that there is not only a constitutional imperative to give effect to these entitlements but also a legislative and a policy framework and, more importantly, a functioning machine in place (the Commission) which is realising these rights tirelessly and relentlessly on a day-to-day basis. There is now clear evidence that the productivity of the machine is increasing and this will result in greater numbers of people receiving the benefits which accrue to them in terms of this dispensation.

## **The Twin Challenges of Rural Development and Reintegrating Urban Areas**

### *The challenge of rural development aimed at uprooting poverty*

Land restitution faces the challenge of making a contribution to the Presidential Rural Development Initiative, in particular targeting the three provinces of the Eastern Cape, KwaZulu-Natal and Northern Province, as well as rural development in general. The Commission is aware of this challenge and Minister Thokozile Didiza has directed the Commission to prioritise its work in such a way that it reflects this orientation. In her strategic priorities statement made on 11 February 2000, she articulated the priorities for restitution as follows:

- A need to speed up the settlement of restitution claims.
- A review of the current method of calculating monetary values for the settling of claims.
- A reduction of administrative costs through closer collaboration with other relevant Departments.
- A refocusing of efforts in the settlement of rural claims.
- Restructuring the restitution process to enable the speeding up of claims.
- Integrated formulation of policy.
- Communication with claimants regarding the restitution process and the status of their claims.

Land restitution has a major role to play and to contribute to the Rural Development Initiative in particular, and rural development in general. The processing of claims from this year will reflect this particular orientation and commitment.

### *The Challenge of Reintegrating Urban Areas, Cities, Towns, Hamlets and Villages*

The consequences of land dispossession included, among other things, the reordering of spatial planning to reflect apartheid segregation. Land restitution faces the challenge of contributing towards processes of reintegrating segregated cities, towns, hamlets and villages throughout the country, in close collaboration with local government structures, provincial governments and relevant national government departments, e.g. Department of Land Affairs, Department of Public Works and Department of National Housing. Already there are pilot projects in this direction such as Pelcra (Port Elizabeth), West End (East London), Payneville (Johannesburg), Cato Manor (Durban) and District Six (Cape Town).

Land restitution is alive to the moral, political, economic and social imperatives to build and rebuild benevolent communities

in our country. For too long our society has been divided between those who live affluently in white suburbs and on farms, and those living in grinding and abject poverty in townships and shanty towns, with no land to sustain them. These disparities could be at the root of our social problems. They engender a sense of injustice. Surely, this must come to an end. Land restitution has a major role to play in this regard.

## **CONCLUSION**

The business plan reveals a massive task ahead for restitution over the next five years. Projections reveal that the conclusion and settlement of the bulk of restitution claims is indeed a possibility, provided that adequate resources - human, procedural, structural and financial - are put in place as a matter of urgency.

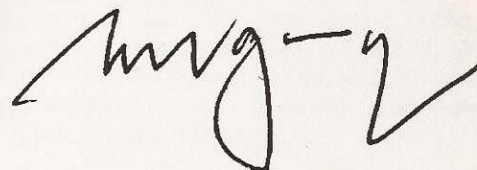
We currently have highly developed systems of delivery which, if bolstered with these necessary resources, will be able to deliver restitution as required by the Constitution within a relatively short period of time. It needs to be stressed, however, that this plan is based on certain crucial assumptions which, if taken into account, will prove the success or otherwise of the restitution task.

A word of thanks is due to all those who have worked in the Commission over the past five years. A special word of thanks to that veteran trade unionist, Ms Emma Mashinini, who has given the last years of her working life to land restitution. She laid a solid foundation for her successor to take restitution to greater heights. Ms Cheryl Walker, a tireless fighter, has also given her best. In her clinical approach to her work, she contributed tremendously to land restitution and now wishes to explore other avenues of life. We also wish Ms Durkje Gilfillan well in her new career, having served the Commission for three years.

I shall have failed in my position as the Chief Land Claims Commissioner if I do not express a special word of gratitude to both the Netherlands and the Belgian Governments for their monetary support, which helped reinforce the resources allocated to the Commission by our Government over the past three years.

Last but not least, a word of appreciation to our new Minister, Thoko Didiza, who is a task master, for giving policy direction to restitution and for implementing the administrative approach set by her predecessor, which has resulted in a substantial increase in the pace of the restitution process.

All those who served in the Commission over the past five years can be proud of the fact that they have laid the foundations for the future work of the Commission. The bar of history will judge them as pioneers in land restitution. Indeed, their achievements must be seen and measured against the odds they had to face and overcome.



**ADV. Wallace Mgoqi**  
**Chief Land Claims Commissioner (SA)**



# FINALISED CLAIMS





*"Now at last I can sleep."* The leader of the Bhangazi community claim on the eastern shore of Lake St. Lucia, after the ceremony at which the settlement agreement was signed on Heritage Day, 24 September 1999.

## **Bhangazi, Eastern shore of St. Lucia**

This landmark settlement was finally signed on Heritage Day, 24 September 1999 at a large community meeting held on the site of the community's new Lokotwayo Heritage Site within the protected area of the Greater St. Lucia Wetland Park. The dignitaries in attendance were Deputy State President Jacob Zuma, Minister Didiza, Premier Lionel Mtshali, MEC for Environmental Affairs and Agriculture Narend Singh, MEC for Tourism and Economic Development Michael Mabuyakhulu, CLCC Wallace Mgoqi, as well as board members and staff of the KwaZulu Natal Conservation Services and the RLCC. This was an extremely complex claim to facilitate and negotiate. The claim is on prime conservation land that was proclaimed one of South Africa's first three World Heritage Sites in late 1999.

A unique settlement package was developed around a number of elements. The 556 verified claimant families each received an amount of R 30 000, as a share of the total financial award of R 16 680 000. In addition, the community was awarded certain rights to five hectares for the development of a community Heritage Site at Lake Bhangazi, a site of the grave of their former leader, Chief Lokotwayo. They will also receive proceeds from a community gate levy on tourists entering the eastern shore which will be paid to a community trust which will be responsible for developing and managing the Heritage Site.

## **Baynesfield**

In January 2000 the key elements of a settlement on another long-standing and complex claim on the historic Baynesfield Estate, near Richmond, were approved by the Minister. In terms of the negotiated agreement with the Estate, some of the former labour tenant/beneficial occupants who were evicted from the Estate will be restored to their former land while the balance will take their share of the award as financial compensation. Plans are far advanced for the development of the land for agricultural and settlement purposes under the supervision of the Provincial Office of the Department of Land Affairs. With the approval of the Minister for the settlement now granted, the Estate is in a position to approach the High Court to amend the will of Joseph Baynes to allow the commencement of the development, which is in keeping with the spirit of Baynes original, philanthropic will.

## **Burlington**

This is another important settlement linked to housing development in Pinetown, Durban. 403 claims are involved in this group settlement on behalf of former tenants on privately owned land. The Burlington claimants have been pro-active in promoting a low-income housing project on the land they have claimed and, as in Kipi, the Commission has enjoyed a constructive relationship with the Inner West Council in taking this forward.

Five other individual urban claims were settled towards the latter part of the year under review. Financial compensation awards were made to Mr BV Muruvan (R 69 607) and Mr T Naidoo (R 105 000) whose claims were settled via a Section 42(d) by the Minister. These claims were seen as part of a pilot initiative in Block AK, Durban, where there are many other claims as a result of the application of the Group Areas

Act to this once vibrant inner-city neighbourhood. The Commission is waiting for the outcome of a historical valuation exercise to underpin a broader settlement strategy for the claims in this area during the year 2000.

Mr R. Goba, was the first claimant in the Pietermaritzburg area to receive financial compensation in respect of his land claim for former freehold rights in the so-called "black spot" of Ockertskraal, situated in what is now a highly developed suburb known as Bellevue. Mr Goba was expropriated and removed under the Group Areas Act in the late 1960<sup>s</sup>. This claim was also settled via a Section 42(d) submission to the Minister.

Mr AK Dookhi's claim, representing six households is another urban, family claim which was settled via the Section 42(d) route. The claim was for three properties lost through expropriation in Durban North in 1958. The Dookhi's accepted R 93 411 as settlement for their claim in September 1999.

The fifth urban claim was the first claim to be settled in Cato Manor. The claimant, Mrs L. Moodley, was dispossessed of ownership rights under the Group Areas Act of 1950. Having lost her family home in Cato Manor, she was unable to finance the purchase of another property and was obliged to enter the rental market. Mrs L. Moodley received an amount of R 64 804 on 10 December 1999.

## **Sabokwe**

At the end of March 2000, the Land Claims Court issued a Court Order that saw the final settlement of this claim on behalf of 580 households. The Sabokwe ward of Reserve Four was excised from the schedule of land set aside for black occupation in terms of the 1913 Land Act, in 1976, to make way for the development of Richards Bay as a major port and industrial centre as well as to give shape to plans to "consolidate" the former homeland of KwaZulu. The settlement of this claim was first hammered out in 1996 in a climate of considerable conflict and tension, and then referred to the Land Claims Court at the end of 1997. The settlement involves an award of alternative land close to the original area (now the site of the Richards Bay Airport, for development as a settlement. Plans have been drawn up for the development of the area but have been on hold pending the resolution of the finer points of the claim. Delays were also experienced as a result of the claimant leadership changing lawyers and the difficulty of tracing and communicating with all the intended beneficiaries. Those families who will not be accommodated in the new Sabokwe will receive financial compensation as their share of the award.

## **Goodwood / Parow suburbs, Cape Town**

During 1995 the Commission received several individual claims from claimants who were removed from Goodwood and Parow. These claimants had been forced to sell their properties to White owners between 1962 and 1965 in terms of the Group Areas Act.

On 16 May 1999, the then Deputy President, Mr. Thabo Mbeki, handed financial compensation to the following claimants: Ms SJ Benting received R 82 962, Mr WH Dowling R 52 398, Mrs CM Adonis R 24 949, Mr BJ Brown R 24 682, Mr and Mrs Hedricks R 43 035, Mrs ME Fredericks R 41 441 and Mr P Baptiste R 134 272.

## **Simons Town**

Mr. S. Richards lodged a land claim for Erf 651, Simons Town



with the Land Claims Commission in May 1998. Mr. Richards had bought the 67 square metre property in 1964 and was forced to sell it in terms of the Community Development Act, 1966 (Act. No. 3 of 1966), to the Community Development Board in 1971 for R 870.

Since Mr. Richards could not buy an alternative property with the R 870 he received from the State in 1971, he suffered as a result of the dispossession. As financial compensation for the land claim Mr. Richards received R 12 042 on 12 November 1999.

## Stellenbosch

A land claim for the remainder of Erf 2565, Stellenbosch was lodged in 1995 by Mr. William George Hector. Mr. Hector died in July 1998 and his wife and three children then claimed on his behalf. Mr. Hector had bought the property in 1954 for £1500 (pounds) R 3 000. In terms of the Group Areas Act, 1964, Mr. Hector was forced to sell the property to the Community Development Board in 1967 for R 8 300.

On 16 May 1999, at a hand over ceremony in Bellville, the claimants received R 238 079 as compensation for the claim.

Mrs. S.P. Gabriels claimed, as the widow of the late Mr. Leonard Gabriels, who was the owner of Erf 735, Stellenbosch. Mr. Gabriels had purchased the property in 1937, and in 1965 was forced to sell it for R 7 000. In 1998, the Department of Land Affairs appointed an independent valuer to do a historical valuation of the property. After an escalation clause was applied to the historical valuation, the State offered the claimant R 46 314 as compensation for the land claim on 16 May 1999.

## Bellville, Cape Town

A claim was lodged by Ms. Catharine Johanna Arendse in 1995, on behalf of herself, her siblings and on behalf of the child of her late brother. They claimed as direct descendants of the late Mr. John Johannes Andrews. The claim lodged was for Erven 4149, 4150, 4157 and 4158 Bellville. Mr. Andrews was forced to sell the erven to the Community Development Board in terms of the Group Areas Act, 1957 (Act No. 77 of 1957) and Proclamation No. 14 of 1958 in February 1963. Mr. Andrews, received a joint price of R 1 600 for all four erven. The actual dispossession took place in 1962. After the value of the properties was determined in the 1960s and an escalation clause was applied, the Department paid the claimants R 109 452 as financial compensation on 16 May 1999.

## Malmesbury

There has been a progressive process of valuation, negotiation and facilitation, involving 55 claims received from the Malmesbury area. In February 1999, 42 claims were referred to the Department of Land Affairs. Most of the claims have been settled by way of financial compensation awards by the State.

Mr. J.G. Edas and Mr. J.B. Stuurman both lost their properties in terms of the Group Areas Act 77 of 1957. After a negotiated settlement was reached with the claimants, the State, represented by the Department of Land Affairs, paid them the following amounts on 7 April 1999: Mr JG Edas R 24 000 and Mr JB Stuurman R 38 962.

On 16 May 1999, the following claimants received financial compensation for properties lost in Malmesbury in terms of the Group Areas Act: Ms HEL Humphreys R 52 118 and Mr

On 25 May 1999, at a ceremony attended by the Chief Land Claims Commissioner, Adv. W.A. Mgoqi, the largest group of claimants received financial compensation for properties dispossessed in Malmesbury:

Mr. P.J.J. Alias	R 128 064
Mr. E.M. Arendse	R 3 782
Rev. K.I. Abrahams	R 72 641
Mr. G.D. Balie	R 116 398
Mrs. E.E. de Kock	R 178 537
Mrs. P. Geswind	R 83 330
Mrs. A. Jasson	R 41 612
Mr. M.G. Kaptein	R 134 420
Mr. G.N. Lategan	R 98 230
Mrs. J.A. Lategan	R 180 622
Mrs. E.S.I. Meyer	R 155 100
Mr. T. Solomon	R 90 790
Mrs. A. van der Merwe	R 40 351
Mr. C.P. van der Merwe	R 64 817
Mr. V.W. Wells	R 84 935
Mrs. M. Petersen	R 55 804
Mrs. E.V. Howburg	R 65 066

On 28 September 1999, Adv. Mgoqi handed financial compensation to the value of R 884 783 to eight claimants who had lodged claims for properties dispossessed in Malmesbury. The payout was as follows:

Mrs. E.F. Albertus	R 40 815
Mr. R.E.L. Arendse	R 51 979
Mrs. J.B. Booys	R 205 281
Mr. C.G. van der Merwe	R 56 525
Mr. C.S. Erentze	R 129 840
Mrs. I.R. Davids	R 11 574
Mr. W.A. Daniels	R 75 334
Mrs. I.F.M. Simons	R 30 094 for Erf 1002
Mrs. I.F.M. Simons	R 283 337 for Erven 902, 903 & 904

## Schmidtsdrift

The Minister of Agriculture and Land Affairs, Ms. Thoko Didiza, settled a major restitution claim involving SANDF land in the Northern Cape. The Schmidtsdrift land claim agreement involves 28 509 ha of land being restored to approximately 769 households. The Settlement Agreement reached was officially signed at a ceremony on 8 April 2000 at "Die Uitspanning Grond", Schmidtsdrift, between Kimberley and Campbell.

The SANDF Schmidtsdrift Training Area is situated 71 km south-west of Kimberley in the Herbert District and covers an area of approximately 32 269 ha. The land claim for parts of Schmidtsdrift, comprising six farms (28 000 ha in extent), was originally lodged with the Advisory Commission on Land Allocation (ACLA) by the Bathlaping community (Tswanas) who were forcibly removed from the area in terms of the Native Trust and Land Act (No. 18 of 1936) in 1968, as what was termed a "black spot" removal. The claim was transferred to the present Land Claims Commission in 1995. The SANDF started managing the Schmidtsdrift land in 1972, and in 1990 members of the San community were resettled in a tent-town on the land.

In 1997, an agreement in principle was reached between the Bathlaping community, the SANDF, the Provincial Government and the Department of Land Affairs in terms of which the claimed land could be returned to the claimants. Various



matters such as the resettlement of the San community and the clearing of dangerous objects such as unexploded ammunition by the SANDF, were still being discussed at the time. However, objections were raised by various Griqua groupings against the agreement reached between the State and the Bathlaping (Tswanas) community. The Griqua groups had lodged counter claims for the land called Schmidtsdrift.

During negotiation sessions with the State, the United Griquas of Griqualand West and the "Klein Fonteintjie Gemeenskap" who lodged the counter land claims for the land called Schmidtsdrift, indicated that they were willing to negotiate for alternative land.

A breakthrough was achieved on 5 February 1999, when the different parties signed a Framework Agreement. The Bathlaping (Tswanas) and the Klein Fonteintjie Gemeenskap jointly formed the Schmidtsdrift Communal Property Association. The United Griquas of Griqualand West split into two groups, the Engelbrechts and the Hoogstanders, who, after several meetings, agreed to work together to settle the claim amicably. Another Griqua grouping, the House of the Griquas, had subsequently also lodged a claim for Schmidtsdrift. On 14 January 2000, an agreement was signed between the House of the Griquas and the United Griquas of Griqualand West, declaring co-operation to settle the Schmidtsdrift restitution claim.

After more than five years of negotiations, an agreement was reached with the SANDF. The agreement encompasses the clearing of dangerous objects and the time frame for the departure of the SANDF from the 28 509 ha of land being restored to the newly-formed Schmidtsdrift Communal Property Association. The breakthrough was achieved when the SANDF indicated that it did not require compensatory land for the land being restored to the claimants.

The Schmidtsdrift land claim agreement includes the restoration of land and the community gaining access to restitution discretionary grants from the Department of Land Affairs.

## Kranspoort

The Kranspoort community was dispossessed of their rights in land in 1955 in terms of the Group Areas Act 41 of 1950 and in terms of Chapter IV of the Development Trust and Land Act 18 of 1936. The Kranspoort community enjoyed beneficial occupation rights on the farm for a period of ten years prior to dispossession. The Dutch Reformed Church contested the claim on the grounds that the rights held by the Kranspoort Community were unregistered rights of use and occupation in terms of oral agreements and granted as an act of compassion.

On 10 December 1999 the Land Claims Court granted restoration of ownership of the farm Kranspoort to the Kranspoort Community. The court order stipulated that the claimant community must formulate a plan to the satisfaction of the court for the development and use of the farms and provide sufficient proof of its participation in the planning process and its commitment to the implementation of the plan.

## Port Elizabeth Land and Community Restoration Association (PELCRA)

Port Elizabeth residents lodged their claims on land in 1992

when claims were still being lodged through the Commission on Land Allocation. Most of these claimants had been moved from the heart of the city, South End, Korsten, Fairview and Salisbury Park. They also took their case to the local offices of the Legal Resources Centre, where it has been handled to date by Mr Kobus Pienaar.

The claim was grouped to facilitate matters for the claimants and the other parties involved, it was this group of about 300 people who attended the first mass meeting held, in the Muslim Movement Hall on 23 October 1993. This meeting adopted the resolution to establish a claimants organisation known as the Port Elizabeth Land and Community Restoration Association (PELCRA). This name highlighted from the beginning that the claimants were not looking solely at restitution but in actual fact were looking at the restoration of their lost communities. Raymond Uren was elected as chairperson of the organisation.

At present the PELCRA claim has about 840 claimants who will benefit from the initiative of the RLCC and the Port Elizabeth Municipality to provide alternative land in the prime area of Fairview. The Department of Local Government and Housing together with the Provincial Housing Board will also transfer land to the Port Elizabeth Municipality for the purposes of providing claimants with alternative land. They (DLGH & PHB) will also assist in the provision of housing to the claimants, based on their individual needs. The Port Elizabeth Municipality is expected to provide bulk infrastructure for this initiative.

The claimants have been divided into three categories, based on what they had lost initially:

200m <sup>2</sup>	=	1 unit = R 10 000
CATEGORY A	=	2 units = R 20 000
CATEGORY B	=	3 units = R 30 000
CATEGORY C	=	4 units = R 40 000

It should be emphasised at this stage that this is only Phase 1 of the PELCRA project. The next phase will commence soon and will include claimants of areas like Veeplaas and any other individual claimants who wish to be included in the PELCRA Phase 2 project.

A Settlement Agreement has been signed with the claimants. The funds to purchase the properties will be transferred to the Port Elizabeth Municipality by the Department of Land Affairs by the end of March 2000. The sites will thereafter be divided by the Municipality.

## West Bank

Mr Ben Ntamo in his capacity as chairperson of the West Bank community lodged a claim in 1995 for the land currently occupied by Daimler Chrysler, East London. By December 1998, ± 1 800 claimants had submitted claims relating to individual properties falling within the boundaries of this former location.

The location was founded on the West Bank of the Buffalo River as early as 1849 and maintained its existence as a symbol of the local authority's policy on separate development. In 1965, the inhabitants were forcibly removed in terms of Section 3 of the Bantu (Urban Areas) Consolidation Act, No 25, 1945 to Mdantsane and the former East Bank (Buffalo Flats).

The West Bank claim is proving to be as successful as the PELCRA claim by adopting some of the features incorporated



in the settlement of this land claim. Several stakeholders have been drawn into the settlement of the claim, the most important being the East London Municipality, the Department of Local Government, Housing and Traditional Authorities.

In contrast to PELCRA, however, the mandated committee has agreed that the total monetary value of the claims be shared equally between successful claimants, notwithstanding individual differences, to facilitate the return of the community to West Bank

Specifically, a portion of the restitution award will be used to purchase the alternative land on the West Bank, west of Chester Road. The current owner, the town council, has agreed to release this land for the residential development at a cost of R 0,58 per square metre. The internal services to each site will be covered by the restitution award (± R 10 000 per site). The proposal envisages the installation of bulk infrastructure by the municipality using Consolidated Municipal Infrastructural Programme (CMIP) funding from the Department of Housing and Local Government. Each qualifying claimant will access housing grants to supplement the restitution award.

## **The Highlands**

The Highlands formed part of the farm Garsfontein which was situated in the eastern part of Pretoria. It was a township inhabited by the so-called Coloured people and was declared a 'black spot' in terms of the Group Areas Act. Dispossession took place in the 60s and was carried out by the Pretoria City Council.

After the passing of the Restitution Act in 1994, people who were dispossessed of their properties were invited to lodge claims for the restitution of their land rights. In 1995 the RLCC received approximately 45 claims for the restitution of land rights in The Highlands. After being informed that restoration was not feasible the claimants made it clear that they opted for monetary compensation. The reason being that the area is fully developed with a shopping centre and the up-market suburbs of Garsfontein and Newlands Extension.

Two different valuations were conducted one by the Department of Land Affairs and the other by an independent valuer. This was to determine the value of the properties and the amount of compensation owed to the claimants. A settlement agreement could not be reached between the claimants and the Department of Land Affairs and the matter was referred to the Land Claims Court for adjudication.

On 10 March 2000 the Court decided that compensation be paid to the claimants who were not just and equitably compensated at the time of dispossession. The amounts of compensation ranged between R 561 and R 63 000.

## **Sophiatown**

The claim involves approximately 540 claims to 1001 properties lodged by individual claimants who were forcibly removed from Sophiatown. In 1954 the Native Resettlement Act was passed and had as its fundamental objective the facilitation of removal of black people in the Johannesburg magisterial district. In 1955 people from Sophiatown were forcibly removed from the township and resettled in Soweto.

After the passing of the Restitution of Land Rights Act of 1994, claims for the restitution of land rights in Sophiatown were lodged with the Regional Land Claims Commission. The RLCC had consultative meetings with claimants and it became

feasible. Monetary compensation was therefore considered the best option of redress. On 21 March 2000, the Minister of Agriculture and Land Affairs, Ms Thoko Didiza signed a settlement offer of R 40 000 per property to people who have lodged claims for the restitution of land rights in Sophiatown.

## **Albertville**

The claim involves people who were forcibly removed from Albertville, Johannesburg district in terms of the Group Areas Act. Approximately 773 families were forced to sell their properties and made to buy sites in Bosmont. Most of the claimants opted not to buy sites in Bosmont and moved to Cape Town and others moved abroad.

The RLCC received 225 claims for the restitution of land rights in Albertville. Of these, 188 have been finalised and investigations are continuing on the other claims. A settlement offer has been signed with the claimants of Albertville.

## **Payneville**

The claims for the restitution of land rights in Payneville were lodged by people who were dispossessed of their properties in Payneville in the East Rand. The removals took place between 1958 and 1969. Approximately 10 000 people were affected by the removals.

Payneville was established by Proclamation 1246 of 1924. It was historically registered as portions 39 and 40 Grootfontein farm 165 IR. The land is currently registered as Payneville township and Bakerton Extension 3 under the jurisdiction of the Springs City Council.

324 claims were lodged by individual claimants to 350 properties. The claims were investigated and gazetted in terms of the Restitution of Land Rights Act of 1994. Since the land is vacant, the claimants have been offered the option of a serviced site or financial compensation. The majority of claimants have opted for a serviced site. On 1st April 2000, the Minister of Agriculture and Land Affairs, Ms Thoko Didiza, signed a settlement agreement with the Payneville claimants in Springs.

## **Putfontein**

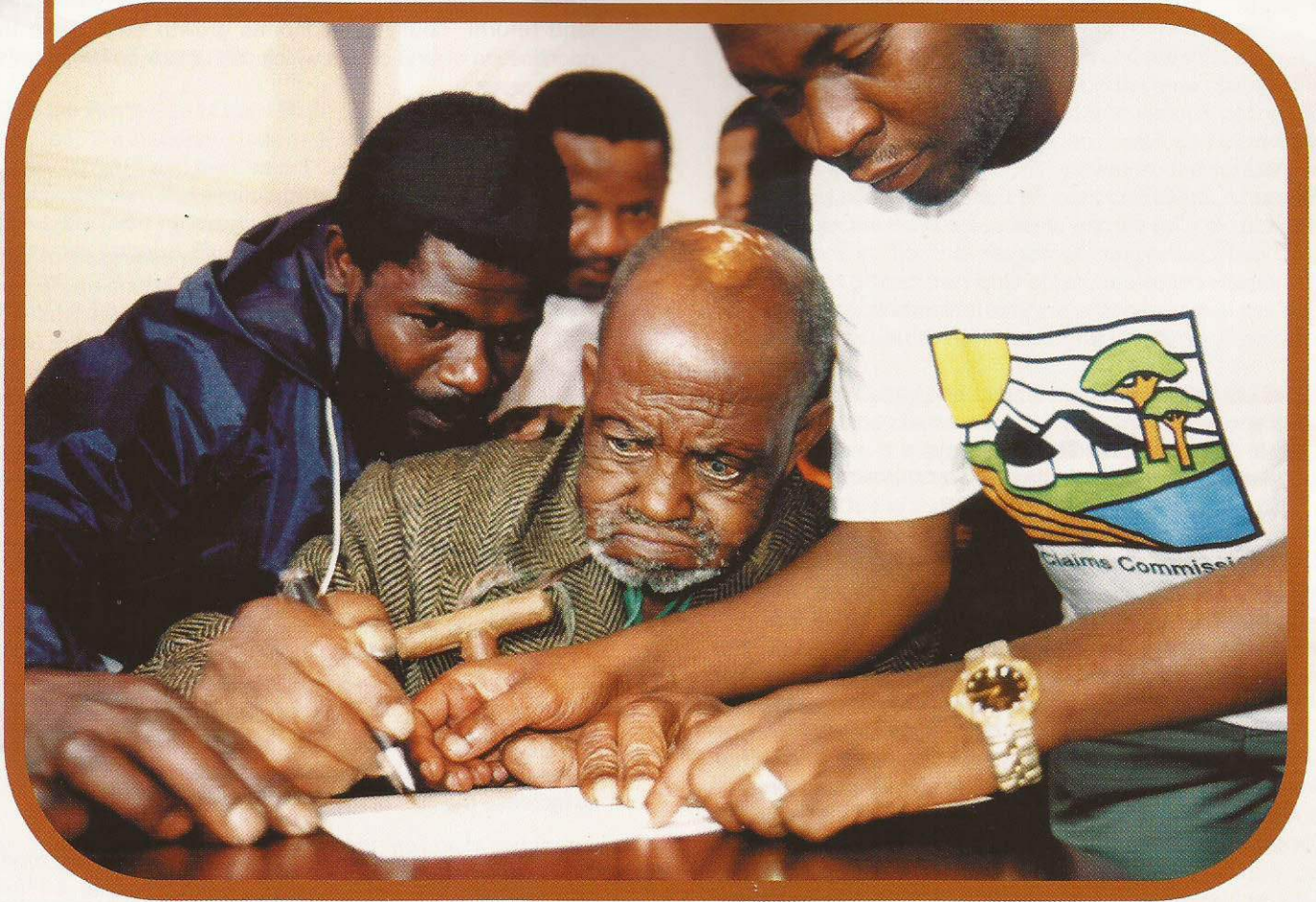
The community of Putfontein lodged a claim for the restitution of land rights to the farms Putfontein, Omega, Sterkfontein and Vogelstruik situated in the district of Litchenburg. Dispossession of these farms took place between 1977 and 1978 and the community was resettled in Ramatlabama and Ganalaagte.

The claim was lodged in 1992 with the Advisory Commission on Land Allocation (ACLA) and was inherited by the RLCC for further investigations in 1996. After completion of the investigations, negotiations for settlement commenced between the claimants, the landowners, the RLCC and the Department of Land Affairs.

A settlement agreement was reached with the current landowners to purchase the farms for resettlement purposes. On 25 March 2000, the Minister of Agriculture and Land Affairs, Ms Thoko Didiza, signed an agreement with the landowners for the transfer of the land to the claimants at a ceremony held in Putfontein.



## REGIONAL REPORTS



Ntate Zebulon Maseko (84) at the settlement ceremony in Sophiatown, passed away two weeks after signing.



## EASTERN CAPE



Mr Thozhi Gwanya  
Regional Land Claims Commissioner:  
Eastern Cape

### Overview

The Regional Land Claims Commission started this year with a change in leadership, with Michael Worsnip acting as Regional Land Claims Commissioner up to the end of June 1999. He was filling the gap following the resignation of Dr Gilingwe P. Mayende. The new Commissioner, Mr Tozi Gwanya, was appointed by the Minister with effect from 1 July 1999. This has helped to give strategic direction and focus on the planning and implementation of the Restitution Programme in the office.

Our achievements for the year include the following:

- The settlement of 847 urban claims and one rural claim.
- Finalisation of the five-year Strategic Plan in which the vision, mission, strategies, priorities and operational plan are clearly defined.
- The organogram for the office was agreed upon. The key operational areas are the Investigations (Research) Division, Legal Service Division, Communications Division, Settlement Support and Development Planning, as well as the Finance and Administration Division.
- The RLCC also agreed on the human resource plan, to be able to settle the remaining 6 508 land claims. Two Project Managers and four Project Coordinators were appointed to focus on and facilitate the speedy settlement of claims.
- The district-based team's approach ensures that this Office is able to pay attention to claims from all the geographic

areas, as opposed to only those which are closer to the Office.

- The Office also appointed two Planners to help claimants with settlement support and development planning.
- An integrated development planning approach to restitution was adopted, in which the RLCC works closely with many other role players such as the Provincial Government, (especially the Department of Local Government and Housing, Department of Agriculture and Land Affairs, and Department of Public Works), the District Councils, Municipalities, NGO's, development planners and community structures.

The RLCC supports national and provincial development priorities such as poverty alleviation, SDIs, forestry restructuring, land reform, housing, economic growth etc, hence the prioritisation of land claims which can unlock development in these areas.

### Claims Highlights

#### *Macleantown*

The Macleantown claimants were dispossessed of their residential, arable and commonage rights in land and forcibly removed in terms of section 13(2) of the Native Trust and Land Act no. 18 of 1936. The land was acquired by the State. At the time of dispossession, the claimants were forcibly removed and resettled on less productive land at Mpongo Location, Chalumna in the then Ciskei. Each family received only a standard quarter-acre plot, the size of erven previously owned not being taken into consideration.

The claimants are divided into two groups, landowners and tenants. The landowner claimants are claiming their original erven, except for nine of them, who are claiming alternative land, as it is not feasible to restore their original land due to erosion and a main road cutting through the properties. The Amatola District Council (ADO) has agreed to survey and allocate alternative plots of equivalent size from the commonage, on condition that the Department of Land Affairs agrees to purchase additional land adjacent to the commonage to increase the size of the commonage.

The Macleantown claim has the potential to provide a model for future claims in that the Border Rural Committee, an NGO affiliated to the National Land Committee, took the initiative of setting up a steering committee which includes all stakeholders, including the Amatola District Council, which body will be responsible, in conjunction with the DLA and the Department of Local Government and Housing, for the provision of bulk infrastructure and housing to the resettled claimants. An agreement on land to extend the Commonage has been signed by all parties. In addition, a negotiations mandate has been signed by all relevant Head Office functionaries, as well as the Minister, making the section 42(d) referral a formality.

#### *East Bank*

The East Bank claim is comprised of former property owners, lodgers and tenants who lived in the peri-urban settlement known as the East Bank Location. The location was destroyed after residents were forcibly removed between 1962 and 1980 under the Bantu (Urban Areas) Consolidation Act No. 25 of 1945.



The East Bank claimants lodged their claims individually and were then grouped for ease of processing the claim, which consists of 847 claims. To assist in this process a committee was elected by democratic means in a mass meeting of all the claimants. They organised themselves into the East Bank Land Claim Committee.

Service Providers have been employed to manage the project, verify the claimants, do valuation of the properties and look into the social history of the East Bank Community.

A Memorandum of Agreement has been signed between all the stakeholders, namely the RLCC, the East Bank Land Claims Committee and the East London Transitional Local Council (TLC). Claimant verification, property valuations and the social history on the claim are progressing at the agreed time frames and they are expected to be finished soon.

#### *Dwesa-Cwebe Community*

Before the Restitution of Land Rights Act No. 22 of 1994 was amended, the national Department of Water Affairs and Forestry (DWAF) and the Eastern Cape Nature Conservation (ECNC) disputed the acceptability of this claim in terms of the Act, because no overtly racially discriminatory act was used for the removal. Due to the amendments to the Act, the RLCC referred the claim to Court in terms of a dispossession effected on the grounds of past racially discriminatory practices. However, in order to expedite the claim and in keeping with the move towards an administrative rather than a legislative approach, it is expected that the claim will be referred to the Minister in terms of Section 42 (d).

An agreement has been reached with the claimants and other relevant stakeholders.

At the moment the RLCC is awaiting political direction from the MEC for Economic Affairs and Tourism and the Minister of Agriculture and Land Affairs. This is the last outstanding requirement for a settlement to be reached.

This area has been targeted by the SDI as a priority for development.

#### *Lower Blinkwater Commonage*

This claim is in court. A final report on agreed facts and facts in dispute was filed with the Land Claims Court on March 26 1999. There are only three issues in dispute, on which the Court will be asked to rule:

- *the land rights of the different stakeholders*
- *carrying capacity of the available land*
- *the informal dwellers' claim that they occupied the land with the consent of other stakeholders.*

Given the problem of the carrying capacity of the land and its settlement by people not entitled to restitution, a negotiation position has been approved in which claimants have been given the option of either accepting monetary compensation or an alternative piece of land. In this way it is hoped that all parties will be accommodated and that no-one will be forcibly removed from the land.

Negotiations are ongoing and settlement is expected soon.

#### *C. J. Bester Individual Land*

This claim was referred to the Court on 11 February 1998. The parties requested the Court to give them time to negotiate

a settlement. The claimants' attorneys have made a settlement proposal to the DLA, which in turn has requested a detailed explanation of how the settlement was arrived at. Both parties have agreed to the appointment of a Control Valuer.

A Mandate to Negotiate has been approved by the Minister. Negotiations are ongoing, and a settlement is expected soon.

### **Achievements and Challenges**

#### *Forestry*

The Department of Water Affairs and Forestry (DWAF) entered into a process of privatising State-owned commercial forest plantations managed by DWAF and SAFCOL in 1998. Late in 1998 a Forest Land Rights Working Group was established in order to secure the land rights of land restitution claimants. A business plan was drawn up in early 1999 to deal with all land claims in South Africa that affect and are affected by the forestry privatisation process. It soon became obvious that this was not financially viable and that various options for obtaining funding to process the land restitution claims had failed for a variety of reasons. However, the forestry restructuring and privatisation process continued. At present contracts for the lease agreements with the selected preferred bidders are in the final stages of completion. The lease agreements protect the rights of land restitution claimants to the land, on condition that they are willing to accept the lease signed between DWAF and the preferred bidders.

The Eastern Cape Land Claims Commission has the largest number of land claims affecting forestry plantations in the country. There is a total of 132 potential claims, 73 of which are against the A Grade plantations that have been released for leasing. Due to a shortage of staff and financial resources, the RLCC has not been in a position to investigate the validity of the identified claims, nor to determine which of the claims are in fact against DWAF/SAFCOL plantations and which are not. A Forestry Task Team has been formed to look into the possibilities of dealing with these claims. Presently the team has developed a project proposal which puts forward a series of options to address how these claims can be dealt with as speedily as possible given the time and other constraints under which the RLCC is required to work.

In order to deal with these claims in a coherent and co-ordinated manner, it will be necessary to develop an overarching strategy that enables the RLCC to deal with the forestry-related claims within a single larger project.

#### **Difficult Claims**

##### *Tshatshu Community*

The Tshatshu Community is claiming land which is already developed, some of it being a large portion of Bisho, including the Eastern Cape Ministerial Complex. The claimants were dislocated periodically. This has led the RLCC to reach a decision not to send the claim to the Land Claims Court because it will drag on for a long time due to its complexities. A Steering Committee has been formed which is composed of many stakeholders, namely Department of Agriculture and Land Affairs (DALA), Da Gama Textiles, Housing and Local Government, industrialists, King Williams Town Transitional Local Council and the Tshatshu Residents Association. The formation of the Committee is one of the milestones in the claim, as each stakeholder will contribute towards the resolution of the claim.

The claim is still being investigated and therefore, ownership



of the land being claimed is not yet established. The problem is that the land has been occupied prior to the land claim being resolved, which has created many tensions. At the moment some of the claimants have invaded land that is close to the Bisho Ministerial Complex, land that is owned by the King Williams Town TLC. This has created some tensions and the Commission is working on resolving it.

### **Betterment Claims**

The Commission has grappled with the discussion of dispossession based on reasons of betterment, and has finally reached a point at which it was agreed that these indeed are valid land claims. In the past, numerous claims had to be dismissed by the Commission because the actual understanding of there being a racially discriminatory practice in these dispossessions had not been established. It was finally agreed that the Homelands Act was itself based on a racial practice and any laws which were made to support this Act were themselves based on a racial practice.

The driving force behind this understanding is the Village of Chatha Land Claim, in the Keiskammahoek of the former Ciskei, which was taken up by the Border Rural Committee after the Commission had dismissed this claim. The loss of rights in land was as a result of the implementation of the policy on betterment planning from the early 1960s onwards. The policy was implemented through the provisions of Sections of the Native Administration Act 38 of 1927 and the Native Trust and Land Act 18 of 1936 and various proclamations made in terms of these statutes.

Land rights lost are judged on the basis that before the implementation of betterment planning, the rights to arable fields and residential sites were fundamentally individualised rights and it is on this basis that they were strong, enforceable rights. The communities were dispossessed of their right to manage common land when this control was placed in the hands of government officials. Through the implementation of betterment planning, the communities were dispossessed individually and collectively of their rights in land.

The Commission is faced with the challenge of working out how these rights can be returned to the affected communities

### **Strategic Objectives**

The strategic plans of the Eastern Cape Land Claims Commission are:

- To determine the actual number of valid claims and dismiss those claims which do not meet the acceptance criteria as set out in the Restitution Act No. 22 of 1994.
- To expedite the process of settling claims, in order to achieve the target of 58% of claims settled in five years' time.
- To facilitate settlement support and development planning and thereby link claimants to appropriate partners in development.
- To establish linkages with the Provincial Housing Board, Department of Local Government and Housing, provincial Department of Agriculture and Land Affairs, District Councils, donors, NGOs and other interested parties, with a view of achieving the required integrated approach to development.

The Commission plans to settle 1 701 claims (1 682 urban

and 19 rural) within the next financial year. The cost of this can be estimated at ± R 40 000 per claim.

The rural claims are often community claims involving about 200 families each, with an average of 6,2 people per household.







Ms Cheryl Walker  
Regional Land Claims Commissioner:  
Kwazulu-Natal

### Overview

The year under review has been a challenging year in many respects and also provided encouragement to many claimants in KwaZulu-Natal that the delivery of restitution was picking up. The year 1999/2000 saw a significant increase in the number of claims settled as the administrative approach began to be implemented. From a total of one group settlement involving 85 claims in 1998/1999 the number of claims settled increased to involving 1985 households or approximately 12 000 people. The capital budget expended on them to date is some R 37 803 553.

Highlights included the four settlement celebrations that took place during the course of 1999 for Scharnick, Kipi, Nazareth and Bhangazi (eastern shore of Lake St Lucia), as well as the office achievement of reaching and then surpassing its settlement target of 500 claims well before the March 2000 deadline set by the national office.

The message contained in these settlements is more than just the attaining of a restitution award. Negotiated agreements as well as partnerships with other spheres of government have resulted in a number of constructive, versatile and sustainable packages that take into account differing needs, restitution priorities and broader socio-economic perspectives.

The Commission produced a Business Plan committing itself to resolving all urban claims and some 700 rural claims within five years.

In addition to the settled claims substantial progress has been made in the processing of many other categories of claims in all parts of the province.

Cato Manor has remained a major focus of attention. The lengthy mediation process that was required by the agreement negotiated between the claimants, the City of Durban and the Department of Land Affairs in 1997, as a result of the application by the City to rule out restoration of land to claimants in terms of Section 34 of the Restitution of Land Rights Act, was finally completed. In terms of this process, 537 claimants who had objected to the original Section 34 application by the City had to be interviewed on their restitution options.

The Commission has embarked upon a process of mediation to determine the feasibility of the claimants' preferences for the restoration of their original land. It was an extremely time-consuming, contested and expensive exercise, which resulted in restoration being found to be feasible in only a handful of cases. In 1999, the process of interviewing about  $\pm$  5 000 Cato Manor claimants, who could be contacted, to determine their restitution option was undertaken. This information will be used to determine how many claimants can be accommodated in the various housing development projects in this area.

A framework negotiating position and request for a mandate to make settlement offers to the  $\pm$  3 000 claimants whose claim is based on former tenancy rights in the Umkhumbane Emergency Camp at Cato Manor has been developed and forwarded to the Minister for consideration. If approved, it should enable the settlement of these claims to proceed at scale in the 2000/2001 financial year. The office is targeting the settlement of 800 - 1 000 of these claims per year over the next three-year period.

Linked to the Cato Manor process, some 20 landowners and 60 tenants claims in the Ridgeview Quarry area of Cato Manor have been referred to the Land Claims Court. This is as a result of the referral of the claim by the Kara family to resolve certain disputed matters relating to mineral rights and the value of the rights that were lost by the claimants when expropriated in terms of the Group Areas Act. As a result of the Court joining these additional claims, the Office had to reprioritise staff time towards researching and processing these claims as well as preparing the necessary court referral reports. It is hoped that the lengthy litigation will be finalised during the year 2000.

### Rural Claims

A total of 22 rural cases, involving thousands of beneficiaries in communities and groupings of different sizes, have been prioritised for settlement in 2000/2001 and are at various stages of investigation and negotiation. These involve a number of large community claims and raise complex and challenging issues around equity, development, the rights of claimants and the public interest.

### Lubombo Spatial Development Initiative Zone

A number of claims on the conservation area in the Lubombo Spatial Development Initiative Zone are at an advanced stage of negotiations, including the Mbangweni claim on the Ndumu Game Reserve, and the Mbila claim on the Cape Vidal Forest and Sodwana Bay area.



The Commission has also investigated various claims lodged by the occupants of the contested Dukuduku Forest. It is working in co-operation with the Department of Water Affairs and Forestry to try and accommodate a settlement within that Department's larger resettlement project for the small number of households which do have a valid historic claim to land rights in the area and hence to restitution in terms of the Restitution of Land Rights Act.

#### *Reserve Six*

Also prioritised for settlement are the claims by the Inkosi and people of Reserve Six, which was deproclaimed as a scheduled area to make way for the development of Richards Bay and the claim by the former owners of the Boschhoek SANDF base near Dundee. The Commission is investigating the extent of contamination on this land by military hardware in order to formulate a negotiation framework.

Other rural cases targeted for settlement include the contested claim on the Dunns' land at Mangete. This claim has been referred to the Land Claims Court as a disputed claim. Claims on Hobsland and Khumalosville near Ladysmith, Gujini (Muden), and Kameelkop (Wasbank). The latter claim involves the restoration of vacant State land to former landowners. In trying to expedite this settlement the Commission has realised that procedures for the disposal of State land that was acquired by the former State through racial means, to rightful claimants, are inadequate for the task at this stage. It has accordingly entered into discussions with other stakeholders to try to rationalise the requirements.

#### *Urban Team*

During 1999 the urban team began to work more systematically on a project basis, grouping similar types of claims in the same historic area into single projects, in order to maximise limited investigative and negotiating resources. Projects have been developed in Durban for Sea View, Bellair, Queensburgh, Block AK and adjacent townlands, including the Warwick Avenue Triangle, and in Pietermaritzburg for Ockertskraal, and Pentrich. The Commission has developed framework negotiating positions and draft mandates for these areas and it is hoped that approval of these submissions will open the way for substantial progress in settling the very large numbers of claims lodged for properties in these areas.

The urban team is also managing several large group claims in the Pinetown area, involving housing development along the lines of the settlements developed in the Kipi and Burlington cases, including group claims by the Emmaus, Klaarwater and Nazareth Helping Hands communities. Another interesting claim for restoration involves the Zanzibari community who were removed from their land on the Bluff, Durban to Chatsworth.

The Commission has also targeted the settlement of a number of claims by victims of the Group Areas Act in the town of Ladysmith, and has initiated discussions with the TLC to look at possible utilisation of suitable vacant public land. The need to focus attention on urban claims in the province's country towns has been recognised, to offset the concentration on the major metropolitan centres. Resolution of some 30 claims by former landowners in Charlestown, who were mistakenly excluded from a restoration initiative that predates the establishment of the Commission, is also far advanced.

In its work to bring these claims to settlement, the Commission

paid particular attention in the past year to developing and strengthening links with all the Regional Councils, the Provincial Parliamentary Portfolio Committees on Agriculture, Environmental Affairs and Housing, as well as the Durban Metro and the Pietermaritzburg Transitional Local Council.

#### **Claim Validation**

The Commission has recognised the importance of identifying claims that do not meet the acceptance criteria of the Restitution of Land Rights Act and removing them from the caseload as rapidly as possible. During 1999, in conjunction with an office-wide file audit, more streamlined systems for screening and assessing these claims were developed. The total number of claims found by the Commission not to be valid claims or to be claims that are not in compliance with the requirements of the Act, now stands at 193. In all cases the claimant has been informed formally, in English or Zulu, of the reasons for the dismissal of the claim or land enquiry.

The number of claims investigated and found to be in compliance with the Act and hence accepted and gazetted as valid claims, now stands at 1 064. The pace of gazetting, which was beginning to accelerate in 1998, dropped off in early 1999 when administrative attention had to be diverted to the very large number of claims that were lodged in late 1998. A major file audit was also undertaken in 1999 in conjunction with the operationalisation of the database, which also diverted resources away from gazetting. However, in the latter part of the year under review, with the completion of this task, the pace began to quicken again.

The Commission has identified a two-year project to validate all 13 500 claims still in the early phases of screening, preliminary investigation and assessment by March 2002

#### **Database**

Good progress is being made on updating the database, which has finally begun to operate as a planning and information management tool. The basic inputting of claims data has been completed, but clean-up of the information is still in progress. Duplicate and unmatched entries are being worked through. Details of non-compliance files and settled claims are now being entered onto the system. Despite some limitations, which will be addressed through the national 'second-phase' development of the database, the system is being used to generate reports and inform planning within teams. It is also proving increasingly useful for responding more efficiently to the hundreds of written and telephonic enquiries on specific land parcels or claims that the Office handles each month from local authorities, developers, landowners and claimants.

#### **Property Description Project**

A major problem confronting the Commission in the processing of claims and the delivery of restitution to claimants, is the frequent paucity of critical information needed to verify claims. Without information to validate claimant identity and relationship to formerly dispossessed individuals and properties, and to locate and investigate the land parcels being claimed, it is simply not possible to proceed to validation and negotiation towards settlement.

One of the prerequisites is to locate claims, in order to be in a position to assess the historical information on dispossession and also to inform local authorities, developers, current landowners and other interested parties. Unfortunately, the quality of property information received on many claim forms



is extremely poor, and attempts to contact claimants to investigate the claim further are often unsuccessful. In order to support the drive to validate all claims, the Office appointed consultants to work through all claim forms and match as many as possible against the current property cadastre. The consultants have reported an alarming 40% failure rate to date, but follow-up field work as well as further file investigation will hopefully reduce this figure to more positive proportions.

### **Staffing and Restructuring**

As part of the national restructuring process, the Commission went through an internal staffing and structure review process. One aspect of the internal restructuring was the division of the single Rural Claims Processing Team into two new rural teams, each under a Project Manager. The North-West Regional Team has assumed the responsibility for all claims within the current Regions 2, 3 and 4, while the Coastal and Midlands Team is responsible for all rural claims in Regions 1, 5, 6 and 7. This move has strengthened the management commitment to bolstering the capacity dedicated to processing complex rural claims.







Ms Durkje Gilfillan  
Regional Land Claims Commissioner:  
Mpumalanga and Northern Province

### Overview

Mpumalanga and the Northern Province have been divided into four regions. Each region is managed by a project manager. In each region contacts have been established with local government structures in order to facilitate development driven options for restitution. The aim is to encourage the formation of restitution forums at district level that will serve as structures to report back on the progress of claims and to decide on the prioritisation of claims.

The majority of claims in the two provinces are based on the so-called unregistered rights, and involve privately owned land. Claims on this land are strongly challenged by present landowners. This is causing delays in the resolution of claims in that these claims will in most instances be referred to court for finalisation.

Despite the favourable decision in the Kranspoort claim, the land owners are determined to challenge the claims on a case to case basis.

The Makuleke claim, which was resolved by agreement in 1998, is now in the implementation phase. In the past this matter was managed by the Department of Land Affairs but has now become the function of the Commission. Title to the land was transferred to the Makuleke Communal Property Association in December 1999.

The community, in conjunction with the National Parks Board, is in the process of planning how best to use the Restitution Discretionary Grant towards the development of eco-tourism ventures. The Regional Land Claims Commission is mainly

Our strategic planning must take into consideration that each Regional Land Claims Commission office will now undertake the resolution of cases from lodgment to resolution. An important component of resolving cases will be to facilitate post-settlement development by involving provincial and local government role players at an early stage to ensure that development budgets and plans are better aligned with restitution processes and the prioritisation of claims. Eight claims have been referred to the Land Claims Court for finalisation due to disputes.

### District Forums

Mpumalanga and the Northern Province have been divided into four areas, each of which contains roughly the same number of claims in size and complexity. Each area is managed by a projects manager together with project co-ordinators and project officers.

The claims are registered by magisterial district. This method of registration will remain, but for the purpose of dealing with claims, the claims will be grouped by district council, depending on the number of claims in each district council area. A project co-ordinator will be responsible for the claims in each district, with project officers taking responsibility for individual claims.

In each district, a restitution forum will be established which will be co-ordinated by a projects co-ordinator. The forums will, most importantly, involve claimants in all stages of the claim and afford them the opportunity to make inputs into the prioritisation of claims. The aim is to provide claimant communities with better information on claims processes and prioritisation. This will result in better buy-in by claimants into the Commission's processes and decisions on the resolution of claims and will provide opportunity at an early stage for co-operation with local and provincial government in order to align land development objectives with restitution.

The composition of the forums will differ from area to area depending on the need and availability of organisations and the interest that different organisations have in restitution.

The forum will initially reach agreement on prioritisation, with the Commission putting the prioritisation proposals to the meeting. Acceptance criteria as set out in the Restitution Act will be explained and information shared on alternative land reform options. The claims process will be explained and tasks allocated to various role players and stakeholders to facilitate claims towards the pre-negotiation and negotiation stages. Resolution of each claim will be in keeping with the Restitution Act on a claim-by-claim basis involving all stakeholders with an interest in the claim.

### Claims targeted for finalisation in 2000-2001

#### *Getrusburg*

The Berliner Mission Gesellschaft operated a mission on the farm Ledig 289 LS. In terms of the Development Trust and Land Act 18 of 1936 the farm was situated outside the released area. As a result, members of the claimant community resident at the mission had to be registered as squatters in terms of the 1936 Land Act. The Berliner Mission Gesellschaft refused to pay the necessary registration levies, as a result the community members were termed illegal "squatters" and could be removed in terms of section 3 of the Prevention of Illegal squatting Act (Act no. 52 of 1951).



## *Bopela*

The claim is for rights to land held by the Bopela Community on the remaining extent of the farm Boomplaats 408 LT, Magisterial District of Letaba, Groot Spelonken Ward. The dispossession was effected in terms of Proclamation No 2761 of 31 July 1970 published in terms of the 1964 Bantu Laws Amendment Act. The proclamation prohibited further labour tenant contracts in the area, which fell within the jurisdiction of Commissioner P Torlage, Bantu Affairs Commissioner for Duiwelskooft and several other districts. This proclamation furthered the aims of the Bantu Laws Amendment Act 42 of 1964.

## *Bethesda Mission Station*

The first group of people were dispossessed in 1955 in terms of the Group Areas Act 41 of 1950. In terms of this Act, Bethesda was deemed at the time to fall within a white area. Black persons who wished to remain at Bethesda had to obtain permits in terms of section 14(1)(a) of the Act. Permits were granted selectively to only 100 families. Further permits were issued to amend the number of families to 104. Some 126 families were refused permits and other families moved to the farms of Headman Moloto near Malietsie and Matlala locations situated in the released area in terms of the Development Trust and Land Act 18 of 1936.

## *Rietkloof (Bakgaga-Ba-Kopa Community)*

The Bakgaga-Ba-Kopa Community lodged a claim on the farm Rietkloof in the district of Groblersdal. The claimed land includes about 1200 hectares contaminated with unexploded ordinance and according to the Mechem report the area is inhabitable. The Commission and the mediator are in the process of finalising a negotiated settlement with the South African Police Services. Should this fail the matter will be referred to court.

## *Elandskraal*

The community was removed during the 1986/1987 upheavals in Moutse and the Groblersdal area. The source of this upheaval was tribalism and some people had to move to safe areas where their tribes were dominant. More than 200 of these people happened to be Northern Sotho-speaking and had to move to the north of Groblersdal.

## *Groenfontein*

This claim was lodged by a group of nine individuals who had purchased portion 3 of the farm Groenfontein 266 JS. In 1959 they were removed from the land as part of the "Black Spots" removals. Investigation on this claim has been completed. The claim is at the negotiation stage and is projected to be resolved by September 2000.

## *Botshabelo*

This claim was lodged by the Botshabelo Community on the farms Toevlugt 269 JS and 320 JS, Draaihoek 271 JS and Leeuwpoortje 267 JS, the latter two of which are privately owned. Toevlugt is currently owned by the Middelburg Transitional Local Council.

Investigations on this claim have been completed. The affected owners are neither contesting nor disputing the validity of the claim. A special working committee comprising the Transitional Local Council and community representatives was formed and tasked to come up with proposals on the resolution of

the claim. The projected finalisation date for the claim is October 2000.





Ms Emma T Mashinini  
Regional Land Claims Commissioner:  
Gauteng and North West Province

### Overview

During the period under review, a number of claims were settled by the Regional Land Claims Commission (RLCC) for Gauteng and North-West. The Highlands claim, in particular, was settled by the Land Claims Court in March this year. The judgement on this claim will provide the RLCC with insight on how valuation of urban claims must be conducted.

The RLCC: Gauteng and North-West established a new unit called the Implementation Unit in 1999. The unit has as some of its functions, to prepare mandates to the Minister of Agriculture and Land Affairs to negotiate the settlement of claims, involve local and provincial government departments in restitution and to facilitate the implementation of settlement decisions. For improved lines of accountability and effective line functions, the RLCC has appointed Research Co-ordinators and acting Research Managers for both the Gauteng and the North -West offices.

### Claims Highlights

#### *Ellison and Steynberg*

Ellison and Steynberg is a claim which involves people who were removed from the farms Ellison and Steynberg in the district of Bronkhorstspuit, Gauteng province in the 70s. Most of the community members resettled in Hammanskraal, North-West province.

Approximately 120 claims were lodged with the Regional

Land Claims Commission (RLCC) for the restitution of land rights. The claim was investigated and gazetted by the RLCC before commencement of negotiations with the stakeholders. Through consultation with the claimants, it became clear that they opted for restoration of the land as an option of redress.

The RLCC submitted a settlement proposal to the Minister of Agriculture and Land Affairs in 1999 and the proposal was consequently approved. A service provider was appointed to assist the claimants in drafting a development plan. Transfer of land to the claimants will take place after the completion of the development plan.

#### *Lady Selborne*

Lady Selborne was situated in north-west of Pretoria and the land is currently part of Suiderberg suburb. Lady Selborne was declared a black spot in terms of the Group Areas Amendment Act 29 of 1956. Between 1955 and 1965 people were forcibly removed to Atteridgeville, Mamelodi and Ga-Rankuwa.

In 1996, approximately 960 claims were lodged by individual claimants for the restitution of land rights in Lady Selborne. The claims were investigated and gazetted in terms of the Restitution of Land Rights Act of 1994 as amended. During the investigation, it became clear that part of the land was vacant and is owned by the City Council of Pretoria.

Consultation with the claimants indicated that some of them opted for monetary compensation while others opted for restoration to the vacant land. An agreement has been reached between the claimants, the RLCC, the Department of Land Affairs and the City Council of Pretoria that the Council will formulate a development plan for purposes of restoration. A settlement offer has been made to the claimants and the RLCC is awaiting their response.

#### *Alexandra*

The properties in Alexandra were expropriated in terms of the Native Resettlement Act of 1954, and by 1972, 65 000 families had been removed to Soweto and Tembisa.

The RLCC received approximately 1 500 claims for the restitution of land rights in Alexandra. Of these, more than 800 claims have been investigated and gazetted. The investigations are continuing and a valuation will be carried out by the Provincial Housing Department to determine the value of the properties in Alexandra. It is envisaged that this claim will be resolved soon.

#### *Kinde Estate*

Kinde Estate is a rural claim lodged by Mr J K Msindwana on behalf of the descendants of the late James Cindi for the farms Doornbult 268-IN and Vergenoeg 258-IN, in the district of Mafikeng. This is a rural claim and the land measures 5530, 5173 hectares. In 1969 the farms were consolidated into what is known as Kinde Estate.

Approximately 500 people will benefit from the claim. Dispossession took place in 1963 in terms of the Development and Trust Act of 1936. The community resettled in Frenchdale, Defence and Sweet Valleys commonly known as the Railway block.

After several consultative meetings between parties to the claim, it was agreed that the claim be referred to the Land Claims Court while negotiations continue. A valuation was



conducted on the land but no agreement was reached between the parties on the purchase price. The claim is in Court and judgement is awaited.

#### *Zephanjeskraal*

Zephanjeskraal is a rural claim lodged by Bataung-Ba-Ga-Selale community for the restitution of land rights in Zephanjeskraal (Sefanyetsoskraal), in the district of Rustenburg. The claim is in respect of land that measures approximately 700 hectares and this settlement will benefit 2000 people.

The claim was investigated and gazetted in terms of the Restitution of Land Rights Act 1994. In 1998 the claims was referred to the Land Claims Court because the current landowners objected to negotiations. The claim is still in Court and judgement is awaited.

#### *Madikwe*

This claim was lodged by the Baphalane Ba Sesobe and Barokologadi-Ba-Maotwe tribes for the restitution of land rights to the land which includes the Madikwe Game Reserve in North-West Province.

Dispossession took place in the 50s and part of the land is currently owned by private farmers. Investigations and negotiations are taking place between parties to the claim to establish the correct boundaries of the land.

The Minister of Agriculture and Land Affairs mandated the Regional Land Claims Commission to negotiate a settlement agreement with the North-West Provincial Government.

#### *Rama (Bakgatla-Ba-Mmakau)*

The claim involves the land which is adjacent to MEDUNSA which belonged to the Bakgatla-Ba-Mmakau community and is currently owned by Eckraal Quarries (Pty) Ltd which uses part of the land for mining iron-ore.

Dispossession took place in the 50s and the community resettled in Madidi, North-West Province. Some of the members of the community resettled in Ga-Rankuwa and Mabopane. In 1995, Mr ABC Motsepe lodged a claim on behalf of the Bakgatla-Ba-Mmakau. Consultative meetings with the claimants indicated that they opt for restoration to the land as part of it is vacant.

The RLCC and the Department of Land Affairs held several meetings with the current landowner to discuss various approaches to the claim. An offer for the purchase of the land has been made to Eckraal Quarries.

#### *Tshivulana*

The Gauteng and North-West Commission inherited the claim when the four provinces of Gauteng, North-West, Mpumalanga and Northern provinces were separated into two regional commissions in 1996.

The claim was lodged by Chief Tshivulana on behalf of the Tshivulana community which was removed from an area called Block 5 in the Northern province in 1972.

Part of the land is currently inhabited by Chief Xiviti and his community. As a result of a dispute between the two communities regarding the borders to the claimed land, the case was referred to the Land Claims Court. The first pre-trial

conference was held in September 1997. The claim is still in Court and consultation with the stakeholders is continuing to clarify outstanding issues.

In January 2000 the RLCC for Gauteng and North-West embarked on an annual Strategic Workshop that allowed the office to review and reflect on its performance and define the way forward.

A number of issues were raised by the Research Unit regarding the investigation process and recommendations were made to improve the implementation of systems and procedures.

The workshop also identified policy and legislative gaps and implementation bottlenecks which impede service delivery. The Management Committee will ensure that recommendations made are implemented.

My five-year term of office as the Commissioner for Gauteng and North-West ends on 31 March this year. Much as it was a challenge for me to operate and establish offices in two of the four provinces with which I was entrusted, there was fulfilment as well. I served Mpumalanga and Northern provinces for two years. Slow as the process of restitution may be, I am certain of the final product which is delivery of land.

My thanks to all my colleagues most of all, those who struggled with me to put together structures from the beginning.

We should all remember that we are working with a most precious asset, namely 'land'. I do not blame those who resist to "let go". There is nothing to replace land in this present and the coming world.



## WESTERN CAPE AND NORTHERN CAPE



Mr Alan Roberts  
Regional Land Claims Commissioner:  
Western Cape and Northern Cape

### Overview

The Land Claims Commission for Western and Northern Cape has experienced another eventful year. The restructuring of the Land Claims Commission has placed heavy demands on the existing personnel, who are fully involved in the settlement of land claims according to preset time frames.

The State is the owner of vast tracts of land in the Western and Northern Cape. The Cape Town Office of the Commission has therefore become a full member of the Provincial State Land Disposal Committee (PSLDC). This will enable the Regional Land Claims Commission to be aware of what land is available for release and what land is being released, as well as the use to which the released land will be put. This membership also ensures that no land which is under claim or could be used to settle a claim, is disposed of in an irresponsible manner.

The Western Cape has a large number of individual urban claimants who are seeking financial compensation. The rights and wishes of claimants cannot be ignored. However, initiatives are being looked at to make developmental restitution more attractive for claimants seeking purely financial compensation.

The Western and Northern Cape Office faces the challenge of settling 15 138 land claims which had been lodged with the Commission.

### *Integrated Rural Development*

In a number of rural areas there are highly complex, overlapping land issues which have to be integrated with other developmental imperatives in the area. The RLCC has identified a number of these areas, e.g. Ebenhaeser, Slangrivier and Dysselsdorp, which will be dealt with in a holistic manner to ensure that the total needs and initiatives of the community and other organisations are dealt with in a streamlined manner. It has been the experience of this Commission that while it may take a concerted effort to ensure the buy-in of all players, the benefits in the long run are worth the longer run-up period.

### *Intergrated Urban Development*

The District Six tri-party agreement between the City of Cape Town, the claimants and the Regional Land Claims Commission has provided numerous lessons. The Commission has broadened the relationship with the City into a programmatic approach, whereby the group or community claims within the area of jurisdiction of the City will be dealt with by a single steering committee. The RLCC managed to convince the City of the value of a single point responsibility, and the City has gone so far as to appoint a subcommittee on restitution, which reports directly to the Council's Executive Committee. A further spin-off of this initiative could be the availability of tracts of land within the City which could be used either wholly or partially to meet restitution needs.

### *Current Settlement Rate*

Research has become cumbersome and needs to be slimmed down substantially, particularly in respect of individual claims. A re-examination of the research requirements will be done by the RLCC in conjunction with the flat-rate proposal. It is the contention of this Office that a streamlined research report will be required in order to derive maximum benefit from a flat rate approach. Besides staff shortages, the lack of organisational procedures and systems contributes to the slow delivery. Many of the systems put in place by the Department now need to be instituted by the RLCC, such as the contracting of external service providers for implementation purposes. The Commission has a large workload that is pre-determined, rather than a growing workload, which will allow the RLCC to pro-actively develop structures and systems as the need arises, as was the case in the DLA.

### *Complex Community Claims*

These claims often take considerable time to set in motion, given the need to ensure that all role players are involved and the location of all the claimants. Some claims which were lodged with the Advisory Commission on Land Allocation (ACLA) are still being dealt with, and are still some way from settlement. However, once these issues have been resolved and there is an understanding of the entirety of the claim, the finalisation of such a claim is often speeded up. The proviso is that there is consensus within the community.

To date, fewer than a handful of these types of claims have been settled by this Office. Those which were settled are mainly ex-ACLA cases. Furthermore, the claimant communities have had substantial NGO support. These claims have taken between five and eight years (including the ACLA period) to finalise. It is a concern that many communities and groups do not have additional private sector support, and the RLCC does not have the capacity to meet these demands.



### *Individual Urban Claims*

The sheer mass of numbers of these claims is somewhat daunting for the RLCC. It is hoped that models currently being developed to deal with these claims will reach fruition in the medium and long term, such as the Standard Settlement Offer.

However, depending on who the claimant is, these cases can progress at various speeds. Dealing with large numbers of descendants is more difficult than dealing directly with the dispossessed party. A stumbling block is the determination of the value of the claims, particularly if some part of the lost right needs to be developed. The collation of the documents for the various memoranda, as well as the lengthy documentation required, impedes the progress of claims.





## FREE STATE

### Overview

The work of the Commission in the Free State has been delegated to the Provincial Director. The year 1999 was the most difficult for the Commission in general, as numerous changes have been brought about in the way it had to perform its work, as well as the amendments made to the Restitution Act, in an attempt to speed up the resolution of claims. The introduction of an administrative approach through section 42D required that the office refocus its attention to those claims that could be resolved through the new approach, as opposed to the previous court-driven approach. This approach further required that new protocols be put in place before claims are referred to the Minister.

The Free State office prioritised nine rural claims, most of them in the southern Free State and 687 urban claims in the northern and eastern Free State. These claims are at a fairly advanced stage towards resolution. The total number of claims received is 2769 of which 2668 are urban claims and 101 rural claims. The office plans to have all the claims resolved by the year 2002.

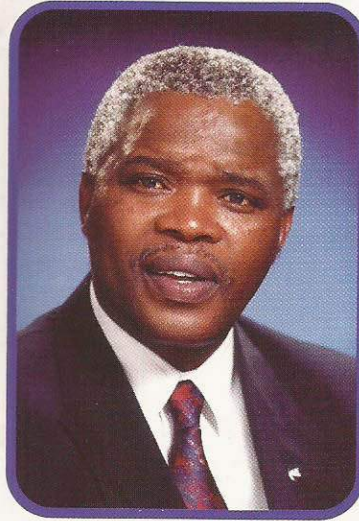
The majority of the claims have been accepted and have reached phase 4 which is 'preparation for negotiations'. The challenges facing this office are:

- To resolve the claims more effectively and efficiently
- To be able to resolve the claims within the set time
- To ensure that the resolution of claims contributes to the broader development goals.

Our plans for the year are to validate all the claims, dismiss claims that do not meet the acceptance criteria, ensure that cooperative and working relationship with other tiers of government is enhanced and to ensure that communication with the claimants is improved.



# Members of the Commission



Adv. Wallace Mgoqi  
Chief Land Claims Commissioner



Ms Debbie Newton  
Provincial Director:  
Department of Land Affairs



Mr Thozì Gwanya  
Regional Land Claims Commissioner:  
Eastern Cape



Ms Emma T Mashinini  
Regional Land Claims Commissioner:  
Gauteng and North West Province



Mr Alan Roberts  
Regional Land Claims Commissioner:  
Western Cape and Northern Cape



Ms Durkje Gilfillan  
Regional Land Claims Commissioner:  
Mpumalanga and Northern Province



Ms Cheryl Walker  
Regional Land Claims Commissioner:  
Kwazulu-Natal



# CLAIMS IN PROGRESS AND AT VARIOUS STAGES OF FINALISATION

## Mpumalanga

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Baphalane, Schilpadnest		X			X
Kafferskraal Claim		X			X
Matsepe Community		X			X
Mampuru Community		X	X		
Moutse		X	X		
Manala Mgibe		X	X		

## North West

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Madikwe Land Claim		X		X	
Rama		X		X	
Bakolobeng		X			X
Kinde Estate		X			X
Zephanjes kraal		X			X
Mooiland & Zamenskoms		X		X	
Magogwane		X		X	
Klipgat		X		X	
Tigerkloof		X		X	
Potchefstroom	X		X		
Tshivulana		X			X



## Northern Province

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Bethesda		X			X
Gertrudsborg		X			X
Ravele		X		X	
Modimolle		X		X	
Makgodu Buyers Association		X	X		
Makotopong		X		X	
Bopela		X			X
Gumbu		X			X
Abba	X			X	
New Pietersburg	X				X
Mokerong		X			X
Potgietersrust		X			X
Mamathola Community		X		X	
Pheeha Community		X		X	
Matlou & Koka Community		X	X		

## Gauteng

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Ellison and Steynberg		X		X	
Alexandra	X			X	
Pageview	X			X	
Lady Selborne	X			X	
Walmansthal		X		X	
Eastwood	X		X		



# Eastern Cape

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Alicedale Group Claim		X	X		
Appiesdraai Community	X		X		
Baqwa Family Claim	X		X		
Bedford Group Claim	X			X	
Breidbach Group Claim	X		X		
Caguba Community Claim		X	X		
Dlakadla Family Claim		X	X		
Dyantyi Family Claim		X	X		
East Bank	X		X		
Farmerfield 1		X			X
Farmerfield 2		X			X
Gwiji Family Claim	X		X		
Graaf-Reinet	X				X
Guba Community Claim		X	X		
Jamjam Family Claim	X		X		
Khaba-Lange	X		X		
Khan Family Claim	X		X		
Kok Family Claim	X		X		
Lunika Family Claim	X		X		
Luswazi Family Claim		X	X		
Macleantown Group Claim	X				X
Mann Family Claim	X		X		
Maka Family Claim		X	X		
Mbolompo Community Claim		X	X		
Mkambati Community Claim		X	X		



# KwaZulu-Natal

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Sabokwe Reserve 4		X			X
Ridgeview Quarry Claims	X				X
Slevin Family Claim		X		X	
Mangete Claim		X		X	
Baynesfield		X			X
Mbangweni		X			X
Mbangweni		X			X
Kameelkop		X			X
Nazareth Mission		X			X
Burlington	X				X
Emmaus	X			X	
N Reddy Sea view	X		X		
BR Naidu Sea view	X		X		

# Free State

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Thaba-Patchoa		X			X
Herschel		X	X		
Dakpoort Portion 2		X	X		
Groothoek		X	X		
Moroka's hoek		X	X		
Palmietfontein		X	X		
Ramahutse		X	X		
Marabastad	X		X		
Andriesfontein		X	X		
Blesbokfontein		X			X



# Western Cape

CLAIM	URBAN	RURAL	PREPARATION FOR NEGOTIATION	NEGOTIATION	SETTLEMENT S42D/COURT
Louisa Maria Pretorius	X				X
Prince Albert	X		X		
Franschhoek	X				X
Strand	X				X
Malmesbury	X				X
Protea Village, Kirstenbosch	X				X
Simon's Town	X				X
Wellington	X			X	
Tramway Road, Sea Point	X				X
District Six	X				X
S N Nelson claim	X		X		
Ndabeni	X				X
Dysseldorf	X				X
Knysna	X				X
Oudtshoorn	X		X		
Stilbaai	X		X		
Covie		X			X
Ebenhaeser		X			X
Kraaibosh/Katara/Suurvlak		X	X		
Loeriesfontein	X		X		
Majeng		X			X
Khuis		X	X		
Lohatlha		X			X



## MEDIA HIGHLIGHTS

# 'All land claims will be settled in 5 years time'

*Claims for land in South Africa are being settled at an ever-increasing rate, writes*  
**BRENDAN TEMPLETON** from Johannesburg

**T**he majority of South Africa's 63 500 land claims would be settled within five years, Wallace Mgoqi, the chief land claims commissioner, said on Friday.

Addressing fears that Zimbabwe's land invasion crisis could be repeated here, Mgoqi pointed out that South Africa was in an advantageous position because it had mechanisms in place to address past injustices where communities were dispossessed of their land by apartheid laws.

He admitted the process had been extremely slow until recently, but argued that new procedures, which allowed the commissioner to authorise settlements agreed by claimants and landowners, had rejuvenated the restitution process.

"At this time last year there were 41 claims which had been settled; now 4 925 claims have been settled," he said.

"When you look at that figure in relation to the total volume of claims, it is still a small amount. But considering the strides that have been made in the last 12 months, you can extrapolate that; within five years, the majority of the claims will be sorted out."

The latest figures on restitution claims show that 91 406 people have benefited from the process and that R218,7 million has been paid out by the state.

The rand dipped below R7 to the dollar for the first time this week on international perceptions that the Zimbabwe land invasion crisis could affect the South African economy. Many businessmen were hoping President Thabo Mbeki would distance himself from Zimbabwean President Robert Mugabe in his state of the nation address on Thursday, but his softly-softly approach

Meanwhile, a Land Commission report says its detractors are quick to argue that "what has been accomplished thus far is so miniscule and paltry as to be no success at all".

But it says there is a constitutional imperative to give effect to restitution and a legislative and policy framework which is backed up by a "functioning machine (the commission) which is realising these rights tirelessly and relentlessly".

"There is now clear evidence that the productivity of the machine is increasing and this will result in greater numbers of people receiving the benefits which accrue to them in terms of this dispensation," it says.

And Mgoqi said the Zimbabwean crisis had illustrated that all South Africans, not just its blacks, stood to gain from a successful land restitution policy.

Former president Nelson Mandela promulgated the Restitution of Land Rights Act eight months after democratic elections in 1994. Within five months, commissioners were appointed and the first land claims began.

But the process was bogged down by the slow workings of the Land Claims Court, which originally settled disputed claims and authorised settlements. The commissioner was authorised in late 1998 to approve settlements, leading to greater efficiencies.

Mgoqi said the court process was undesirable, as was an adversarial process that pitted peoples' rights against each other. But now that the commissioner could approve settlements, the way had been cleared for speedier, more creative solutions to benefit both parties.

"But we must not emphasise speed only; there has to be sus-



# Delight as West Bank land claim is finalised

By Zamuxolo Feni  
and Wimpie Heath

EAST LONDON — Hundreds of people crowded into the city hall here yesterday to witness the signing of the West Bank land claim, the largest single group of land claims finalised to date.

The agreement finalised by the East Cape Land Claims Commission (ECLCC) was watched by the Nongqongqo Land Claimants group. Agriculture and Land Affairs Minister Thoko Didiza, East London mayor Lulamile Nazo and Housing, Local Government and Traditional Affairs MEC Gugile Nkwinti.

The original Nongqongqo settlement was founded on the West Bank of the Buffalo River as early as 1849, on land now occupied by DaimlerChrysler. In 1965 the inhabitants were forcibly removed and relocated to Mdantsane, Duncan Village and Buffalo Flats.

Delighted land claimant Thenjiwe Shadrack, 76, said the settlement meant the government was keeping its promises. "I remember the times when coloureds and blacks used to stay as neighbours in Nongqongqo village before the evictions," said Shadrack.

In terms of the settlement, the group will get land near the East London airport, on the same side of the city as the land from which they were originally removed.

The claim was initially submitted in 1995 and by December 1998 about 1 900 claimants, the largest single group of claims settled to date by the commission, had submitted their individual claims for their piece of the former location. The ECLCC settled the claims on February 6 this year.

The project will involve the development of about 1 400 sites on land situated between the airport and the sea, measuring about 71 hectares.



**DOTTED LINE:** Agriculture and Land Affairs Minister Thoko Didiza and East London mayor Lulamile Nazo sign a memorandum of agreement on the West Bank land claims at the weekend.

"Justice has been done, and the people's human dignity has been restored, and now our people belong somewhere," said Didiza.

She said the "divide and rule" policies of the past had wrecked the social fabric of society as coloured people were removed to Buffalo Flats while their black colleagues were removed to Mdantsane and Duncan Village.

Chief Land Claims Commissioner Wallace Mgoqi said since the government alone could not carry the burden of redress for the inequities of the past, current landowners from whom land had to be bought were the government's critical partners.

Mgoqi said that one of the problems experienced over the past five years had been the high prices demanded by current landowners for their land— in some cases more than the market value.

The lack of support from the pri-

vate sector for the process of rebuilding communities after restoration was another disturbing feature. There was a wide range of needs — including bulk infrastructure, housing, schools, clinics and libraries — which needed immediate attention.

Mgoqi called on all sectors of the community, especially those with financial resources, to assist the government in the reconstruction of the communities.

He warned that land settlement problems should not be ignored, pointing to the example of the current land crisis in Zimbabwe.

Nazo said the city council had played a critical role in partnership with other stakeholders in ensuring that the West Bank people's aspirations were realised.

"These are some of the results of our democracy that we have struggled to achieve," he said.



# Govt to settle Sophiatown claims

Louise Cook  
and Xolani Xundu

LAND claims in Sophiatown are close to settlement after government offered to pay former residents of the Johannesburg area R40 000 per property lost during forced removals in the 1950s.

Hundreds of people were moved from Sophiatown to Soweto in terms of the then Native Resettlement Act. The aim was to turn the township into an all-white area, later called Triomf.

About 569 people applied to the Land Claims Commission and a special ceremony, attended by Land and Agriculture Minister Thoko Didiza, was held in Sophiatown yesterday to celebrate the success of their claims.

Chief land claims commissioner Wallis Mgoqi said more than 1 000 properties were claimed in the area.

"The offer of R40 000 is made to all people whose claims are valid and who

## Land Claims Court dismisses Pretoria Highlands application, saying victims were compensated

will accept the offer," said Mgoqi. Those who did not accept the offer had the right to approach the Land Claims Court, the Appeal Court and the Constitutional Court for recourse.

He said financial compensation in land claims was one of the remedies provided by the constitution. The other was land restitution.

"In the case of Sophiatown, restitution was not feasible and financial compensation was the only remedy available. Those who do not accept the settlement can approach the Land Claims Court, but the process might be long and complex," said Mgoqi.

Didiza said it was fitting that when SA was celebrating Human Rights Day,

the land affairs department was settling the claims of people from Sophiatown.

"Most (of them) would have loved to come back, but we also acknowledge that this is now a built-up area, different from what Sophiatown was," she said.

Government could not pay for everything that people lost during forced removals by the previous regime.

"We know that R40 000 is not a lot of money but it does serve the issue of redress," said Didiza.

In a rural claim at Puffontein in the maize belt near Lichtenburg, government agreed to buy back 4 797 ha of land from farmers to resettle 850 families.

Commissioner Emma Mashinini said a business plan was being drawn up for

the new owners to continue farming.

Long-standing claims at Payneville, outside Springs, would be settled before the end of this month, and those from the people of Alexandra, north of Johannesburg, would be settled towards the end of next month.

Last week Pretoria's high-profile land claim — known as the Highlands claim — in the upmarket suburbs of Newlands and Garsfontein was finalised after four years when the Land Claims Court ruled that most of the claimants were not entitled to any compensation for the loss of their land.

The court ruled that some claimants received just and equitable compensation when they were removed in the 1960s. Other claimants were awarded between R561 and R63 000 in compensation in the Highlands claim.

The Land Claims Commission has processed 63 455 national claims lodged since May 1995.

# Land claims shock

## People displaced by apartheid will have to wait for years

Sowetan Correspondent

**H**UNDREDS of thousands of South Africans who lost their homes and farms because of apartheid laws will probably not get their property back within the next five years.

This shocking news comes from chief land claims commissioner Advocate Wallace Mgoqi, who explained that the increase in claim settlements over the past year and future projections would result in shortages in funding.

Mgoqi said that judging from the more than 63 000 claims lodged with the commission, future land claims costs could be astronomical. He added that the Government could not afford to continue restoring land to people who had

lodged claims since 1994.

Commission deputy director Neil Cole reports that of the 264 868 hectares of land which had been transferred to claimants, just fewer than half (127 162 ha) was state-owned land. The remaining 137 706 hectares cost R45 million to expropriate. "The 36 891 hectares restored to the Khomani-San was purchased for R8 361 294 (R226 a hectare)," Cole says.

"I would not venture to calculate an average cost a hectare of restored land, as too few claims involving restoration have been resolved and private land prices differ quite drastically from area to area."

To date 13 930 households have benefited from land restoration, while 970 households have been paid out some R32 million in financial

compensation. Advocate Mgoqi said it was important to highlight three specific settlements: Western Cape (44 claims in 1999); North West (301 claims in 1996) and KwaZulu-Natal (88 and 327 claims in 1997 and 1999).

The Land Claims Commission had received 63 455 claims for the period starting 1998 to December 1999. During that period only 785 settlements were made.

Research by the commission shows that there are at least 20 community claims throughout the rest of the country which would involve multi-million rand expropriation costs if land was restored to these communities.

The present annual budget for all reform programmes is R388 million, or 0,25 percent of the national Budget. Mgoqi said that since the

inception of the Restitution Act, R16 million had been spent on the settlement of restitution claims with the biggest slice this amount having been spent in the last 24 months.

Dr Themis Roux of the Centre for Applied Legal Studies at the University of the Witwatersrand said it would be legally possible but politically difficult to slow down the flow of state funds into property restoration.

In his opinion the legal obstacles in the Government's path were insignificant when compared with the political challenge. Roux was a member of the ANC team that drafted the Land Restitution Act.

One of several large claims in Mpumalanga and Northern Province is expected to cost the state as much as R1,6 billion if successful.



# Sophiatown compensation at last

GAYNOR KAST

JOHANNESBURG – It was in the early hours of February 10, 1956 – a day he will never forget – that Mr Amos Simelane, 74, and his family were forcibly removed from their home in Sophiatown.

No money in the world could ever take away the pain and the awful memories of one of the most infamous of the apartheid-era forced removals, in which hundreds of families were displaced, Mr Simelane said yesterday.

Sophiatown was flattened and a whites-only suburb with the less-than-

subtle name of Triomf, Afrikaans for "Triumph", was erected in its place.

"It was about 3am and there was a loud bang on the door. Still half-asleep, we were forced out of the house by policemen with guns in their hands – not even properly clothed – and pushed into a truck.

"I heard one of the policemen saying, 'The government wants this house,' " he said. "We were left in Meadowlands with no food, money or clothes.

"Even after all this time, it upsets me when I talk about what happened. Sophiatown will never be the same and I don't want to come back here

because I'm scared I will have to move again. We lived in a happy place that had a strong community spirit."

Mr Simelane may not be getting his home back – but he will receive compensation.

Land Affairs Minister Thoko Didiza signed the final land claims settlement at the Trevor Huddleston Memorial Centre in Sophiatown yesterday as part of the Human Rights Day celebrations.

The R40 000-a-property compensation agreed to by the residents and the government was welcomed by some and criticised by others.

## A long and painful history . . .

1897 – Land speculator Herman Tobiansky names it Sophia after his wife. Mr Tobiansky's dreams of turning the area into a white suburb were short-lived. He sold plots to Africans and it became a crucible of black politics. It was also a rich social and cultural heritage site.

1948 – The Nationalists came to power. Native Affairs Minister Hendrik Verwoerd decided that it had to go. Angry residents formed the Western Areas Protest Committee.

1955 – One-day work stoppage for February 12 – the day on which the destruction of the town began. The government got word and started removals on February 10. In the 1950s, the Huddleston (after Archbishop Trevor Huddleston) Jazz Band was created.

1963 – All the residents were removed and a construction programme of modest cottages began. The demise of the area was a triumph – called Triomf.

# Didiza signs land claims settlement agreement

By Dan Fuphe

AGRICULTURE and Land Affairs Minister Thoko Didiza signed a settlement agreement at the weekend with 324 former residents of Payneville Township, near Springs on the East Rand, who were forcibly removed from their land by the then apartheid government between 1958 and 1969.

The event at the Bakerton Community Hall on Saturday was also attended by the Chief Land Claims Commissioner Advocate Wallace Mgoqi, the regional Land Claims Commissioner Emma Mashinini, Mayor of Greater Springs Jimmy Mashegoane and leader of the Payneville Restitution committee Kenny Madalane.

The declaration means that the

claimants will either accept a financial compensation of R15 000 if they do not wish to return to Payneville or take a fully developed site and R3 000 from the Restitution Discretionary grant if they wish to return to the area.

Didiza said that the Government had set itself goals to bridge the gap between a past marred by inequality, contempt for others, and heartless deprivation to an orderly, stable and developed nation.

"Restitution is one of the crucial steps that build such bridges. In restitution we restore self-esteem, a sense of being and, where possible, we will bring together those who were thrown apart by a system that had no regard for human development," she said.

Mgoqi said while the process of

restitution had been a subject of criticism over the first five years, a solid foundation had been laid and that the stage was set for its escalation.

"We have indeed not only achieved the target of settling 3 000 claims, but in fact exceeded it. We have just completed a five-business plan which projects that about 42 000 urban claims will be finalised over this period of five years and 25 percent or more of the rural claims," Mgoqi said.

A claimant Mr George Boy Skosana (76) told *Sowetan* that the event was a "God-sent victory" for the displaced people of Payneville.

"Today's event marks the demise of the most hated land act ever passed by a government against its people," Skosana said.



# Financial Report

Item	1999/2000 Expenditure (R)	2000/2001 Allocation (R)
Personnel	12 422 000	14 950 000
Administration	8 401 000	7 956 000
Equipment	864 000	1 009 000
Stores	664 000	1 027 000
Professional and specialist services	18 398 000	25 381 000
Transfer payments	142 862 000	99 000 000

## Restitution Awards (R' millions)

