ESTATE AGENCY INDUSTRY SUMMIT

TOWARDS A BETTER PERFORMING PROPERTY MARKET

GALLAGHER ESTATE, MIDRAND

4-5 OCTOBER 2012

Main Focus:

Clarifying the role of Real Estate in the creation of sustainable human settlements

COMMISSIONS AND THEMATIC AREAS:

Detailed discussions at the Summit will take into account the following key themes:

- **Redefining the role and mandate of the Estate Agency Affairs Board within Human Settlements;**
- **Creating an inclusive and integrated Estate Agency Industry;**
- **The Estate Agency Industry as an economic driver for growth and prosperity; and**
- **A sharpened research and development programme.**

COMMISSION 1: REDEFINING THE ROLE AND MANDATE OF THE ESTATE AGENCY AFFAIRS BOARD IN RELATION TO:

- **THE EFFICACY OF COMPLIANCE, INCLUDING, TRUST ACCOUNTS, ENFORCEMENT (IMPOSITION OF**

ADMINISTRATIVE SANCTIONS AND JUDICIAL SANCTIONS) AND INSPECTION TOOLS TO MONITOR THE CONDUCT OF PROPERTY PRACTITIONERS AS WELL AS EFFECTIVE MECHANISMS TO RESOLVE DISPUTES TO ENSURE STABILITY AND GOOD RELATIONS IN THE ESTATE AGENCY INDUSTRY; AND

- **THE EFFICIENT MANAGEMENT AND ADMINISTRATION OF THE FIDELITY FUND TO ENHANCE GOOD GOVERNANCE AND ADMINISTRATION.**

Facilitators: Advocate Jan Tladi/Brian Chaplog

Presenters: Advocate Werner Krull/Lindiwe Bulu

Scribes/rapporteurs: Khwezi Ngwenya/Mbulelo Tshangana

1.1 KEY ELEMENTS FOR CONSIDERATION

1.1.1 THE EFFICACY OF COMPLIANCE, INCLUDING, TRUST ACCOUNTS, ENFORCEMENT (IMPOSITION OF ADMINISTRATIVE SANCTIONS AND JUDICIAL SANCTIONS) AND INSPECTION TOOLS TO MONITOR THE CONDUCT OF PROPERTY PRACTITIONERS AS WELL AS EFFECTIVE MECHANISMS TO RESOLVE DISPUTES TO ENSURE STABILITY AND GOOD RELATIONS IN THE ESTATE AGENCY INDUSTRY

- Assess and determine the scope of powers of inspectors and investigators in enforcing compliance with legislative requirements;
- Identify appropriate processes and procedures for the undertaking of investigation of complaints;
- Identify appropriate measures to be implemented to ensure proper compliance, inclusive of issuing of compliance notices, imposition of administrative sanctions and opening of trust account; and

- Exploring appropriate mechanisms for the resolution of disputes and appropriate judicial sanctions to maintain good relations and stability within the estate agency industry.

1.1.2 THE EFFICIENT MANAGEMENT AND ADMINISTRATION OF THE FIDELITY FUND TO ENHANCE GOOD GOVERNANCE AND ADMINISTRATION

- Reporting on fees and annual contributions levied on Property Practitioners for prudent financial accountability;
- Reporting on appropriate measures and controls for the proper administration and management of the fidelity fund; and
- Considering circumstances and conditionalities for the claims, grants and payments from fidelity fund.

1.2 TASK DIRECTIVE

1.2.1 THE EFFICACY OF COMPLIANCE, INCLUDING, TRUST ACCOUNTS, ENFORCEMENT (IMPOSITION OF ADMINISTRATIVE SANCTIONS AND JUDICIAL SANCTIONS) AND INSPECTION TOOLS TO MONITOR THE CONDUCT OF PROPERTY PRACTITIONERS AS WELL AS EFFECTIVE MECHANISMS TO RESOLVE DISPUTES TO ENSURE STABILITY AND GOOD RELATIONS IN THE ESTATE AGENCY INDUSTRY

- Review and analyse the adequacy of the current compliance, inspection and enforcement tools, processes and procedures;
- Assess and evaluate the adequacy of the current dispute resolution mechanisms;
- Explore appropriate sanctions (administrative and judicial) for proper compliance and enforcement; and

- Provide solutions and recommendations for the improvement of compliance, enforcement, inspection and speedy resolution of disputes within the industry.

1.2.2 THE EFFICIENT MANAGEMENT AND ADMINISTRATION OF THE FIDELITY FUND TO ENHANCE GOOD GOVERNANCE AND ADMINISTRATION

- Review and analyse the current fees and contributions levied on Property Practitioners;
- Assess and evaluate the current measures and controls for the management and administration of the fidelity fund;
- Analyse circumstances and conditionalities for the claims, grants and payment of funds from the fidelity fund; and
- Provide solutions and recommendations to improve the efficacy of claims and grants payment processes and procedures.

COMMISSION 2: CREATING AN INCLUSIVE AND INTEGRATED ESTATE AGENCY INDUSTRY

Facilitator: Richard Dyantyi
Presenter: Louw Liebenberg
Scribe/rapporteur: Moosa Molapo

The Problem:

The National Development Plan identifies the following key barriers to transformation in the human settlements sector:

- **There are powerful interests at all levels concerned with maintaining the spatial status quo;**

- **The diverse (often contradictory) spatial effects of economic and social policies; and**
- **The lack of an overarching strategic approach to spatial development.**

2.1 KEY ELEMENTS FOR CONSIDERATION

- **Thorough appreciation of the need for transformation in the Real Estate industry;**
- **Unpacking the key problem and developing creative strategies towards resolution of those;**
- **Enhancing consumer protection and alignment to the Consumer Protection Act, including, setting of a mandatory disclosure form to enhance consumer awareness;**
- **Display of ethical behaviour and the duty of disclosure by the Property Practitioner;**
- **Consideration of mandatory and prohibited provisions in agreements to protect the consumer;**
- **Consideration of the language of agreements to enable the consumer to comprehend the contents of the agreement; and**
- **The duty to provide consumer education and information.**

2.2 TASK DIRECTIVE

- **Find ways** to use housing and development in, **residential, commercial, property and auctioneering** to restructure our towns and cities;
- **Identify** major barriers inhibiting access in the industry, and suggest key interventions in **promoting active citizenry by suggesting** different forms of resource support and interventions to enhance the participation of blacks, youth, women and rural inhabitants in the Real Estate industry;
- **Determine** the role of the Real Estate stakeholders in National Human Settlements Forum;

- **Creating Linkages** and determine strategies of knowledge sharing amongst the human settlements institutions/instruments;
- Identify education and information strategies that must be employed by the organization to promote consumer awareness;
- Identify awareness and information strategies and measures that must be employed by the Property Practitioner to protect the consumer; and
- Provide solutions and recommendations for the enhancement of consumer education and information.

COMMISSION 3: ESTATE AGENCY INDUSTRY AS AN ECONOMIC DRIVER TO STIMULATE GROWTH AND DEVELOPMENT

Facilitator: Eddie Mokhoanatse
Presenter: Samson Moraba
Scribe/rapporteur: Dr. Zoleka Sokopo

3.1 KEY ELEMENTS FOR CONSIDERATION

- Identify blockages and delays in the property transaction processes and procedures, i.e. delays in obtaining rates clearance certificates from Municipalities, deeds registration process, processing of transfer duties and conveyancing processes and procedures;
- Identify blockages arising from credit impairments in terms of the National Credit Act which hinder home-ownership and asset wealth creation;
- Identify appropriate ways and measures to ensure compliance to the property sector charter;
- Consideration of Black Economic Empowerment Codes of Good Practice and the Act;
- Setting of targets and numerical goals for the achievement of broadly representative estate agency industry; and

- Using the organization as a catalyst for the improvement of the property market to achieve Outcome 8 goals and objectives.

3.2 TASK DIRECTIVE

- Identify measures and strategies to eliminate blockages and delays in the property transaction processes and procedures, i.e. obtaining of rates certificates, deeds registration, processing of transfer duty and conveyancing processes;
- Identify measures and strategies to eliminate blockages regarding credit impairments;
- Provide measures and strategies that may be implemented to ensure compliance to the Property Sector Charter and the Black Empowerment Codes of Good Practice and the Act in order to enhance black ownership;
- Provide measures and strategies to use the organization as a catalyst for the improvement of the property market to achieve Outcome 8 goals and objectives; and
- Provide solutions and recommendations for the transformation, restructuring and reform of the estate agency industry.

COMMISSION 4: A SHARPENED RESEARCH AND DEVELOPMENT PROGRAMME – PROMOTING THE PROFESSIONAL CONDUCT AND CAPACITY OF PROPERTY PRACTITIONERS

Facilitator: Monwabisi Mclean
Presenter: Nontokozo Zondi
Scribe/rapporteur: Stacey Joseph

4.1 KEY ELEMENTS FOR CONSIDERATION

- Initiation of capacity-building programmes for the advancement of emerging property practitioners;
- Consideration of targeted capacity development programmes targeting blacks, women and youth participation within the estate agency industry;
- Consideration of research and development initiatives to stimulate growth and development of the industry;
- Mandatory education and training requirements of Property Practitioners;
- Mandatory registration requirements of Property Practitioners;
- Circumstances and conditions leading to disqualifications of Property Practitioners;
- Key functions and duties of Property Practitioners;
- Enhancing the ethical standard and professional conduct of Property Practitioners through a code of conduct; and
- Setting of industry norms and standards.

4.2 TASK DIRECTIVE

- Review the adequacy of the existing capacity development programmes directed at growing and developing the estate agency industry;
- Provide solutions and recommendations for the initiation and development of capacity development programmes for the restructuring and reform of the estate agency industry;
- Identify elements negatively impacting upon the display of professional conduct by certain Property Practitioners;
- Identify appropriate ways and means to promote professional conduct and ethical standards within the industry in order to stimulate growth and development; and
- Provide solutions and recommendations for the promotion of professional conduct and high ethical standards by Property Practitioners.