



African Real Estate Society (AfRES) Conference 2024

# Streamlining municipal property transactions in South Africa for enhanced social value creation

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# Question

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To what extent do legislative requirements applicable to municipal immovable property transactions support the realisation of social value objectives?



# Background

## MUNICIPALITIES' CONSTITUTIONAL OBJECTIVES

Provide services

Promote social & economic development

Advance community involvement

Deliver social value to local communities

## OBJECTIVES OF GOVERNING LEGISLATION

Transparency

Accountability

Anti-corruption

Good governance

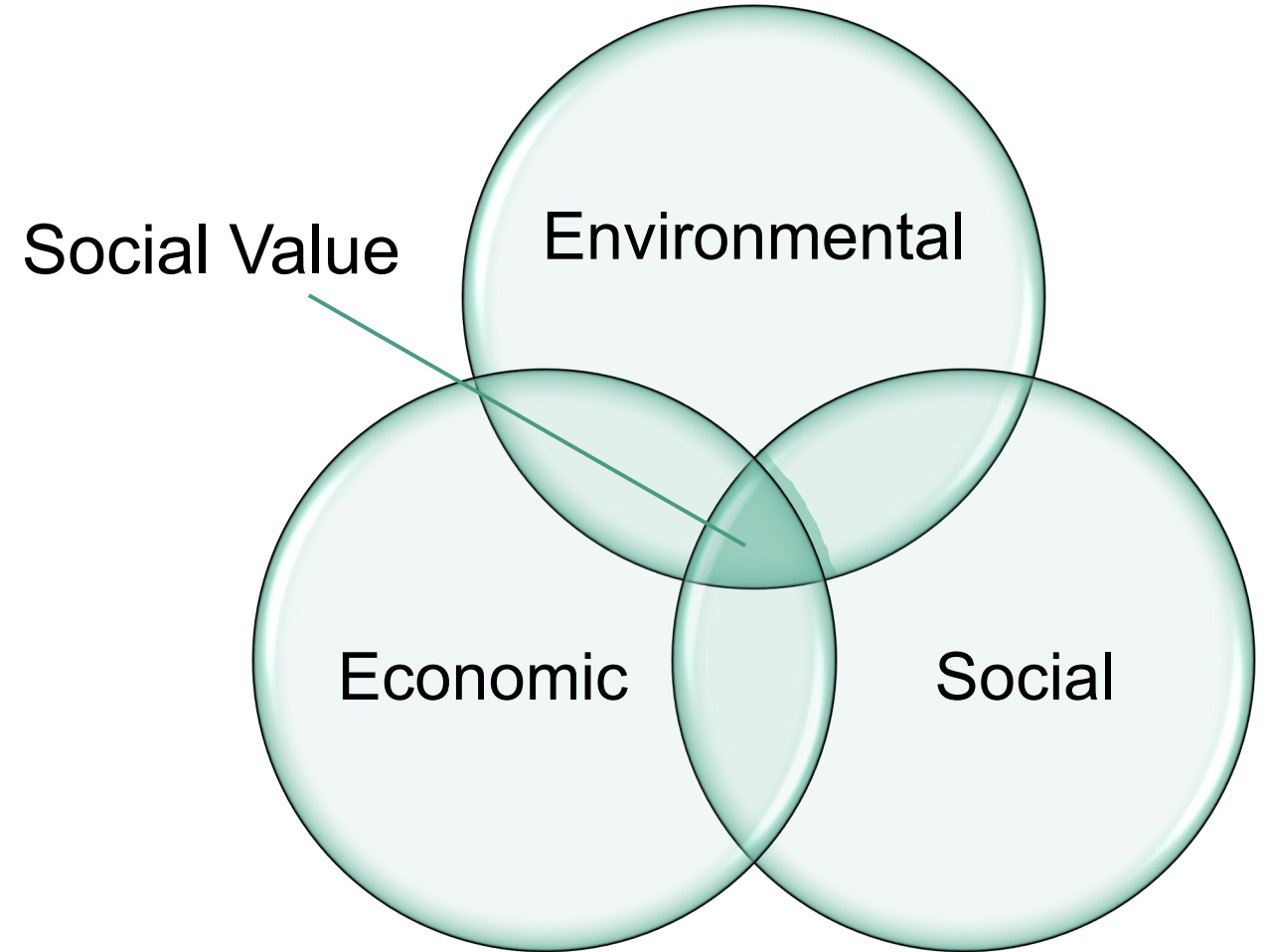
Misalignment can delay or hinder municipality's main objective of social value delivery

# Understanding Social Value

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## Municipal Perspective:

- Municipal Planning
- Social Housing
- Job Creation
- Social Procurement



# Municipal Immovable Property Transactions

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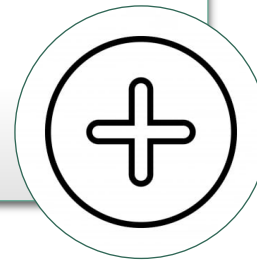
SA Municipalities own immovable property valued at R8 billion

Asset Value



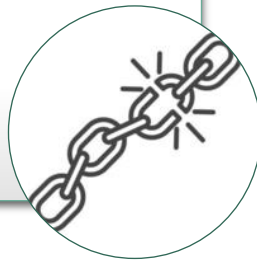
- First: deliver municipal services
- Surplus: sell / lease to 3<sup>rd</sup> parties

Use



- Market conditions disregarded
- Lengthy legislative processes

Constraints



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# Applicable Legislation

Deeds  
Registries  
Act, 1937

Municipal  
Asset  
Transfer  
Regulations,  
2008

Local  
Government:  
Municipal  
Systems Act,  
2000

Local  
Government:  
Municipal  
Finance  
Management  
Act, 2003

Municipal  
Supply Chain  
Management  
Regulations  
(2005)

Preferential  
Procurement  
Framework  
Act, 2000

Preferential  
Procurement  
Regulations,  
2022

# Municipal Asset Transfer Regs: Concepts

## Sale

**High-value assets**

- >R50m
- >1% of total capital asset value
- Total value of assets transferred in 1 year >5% of total asset value

**Other assets** – e.g.:

- Prime undeveloped land valued at R49m
- Community centre valued at R3m
- Small road reserve valued at R20k

Major Transactions

Minor Transactions

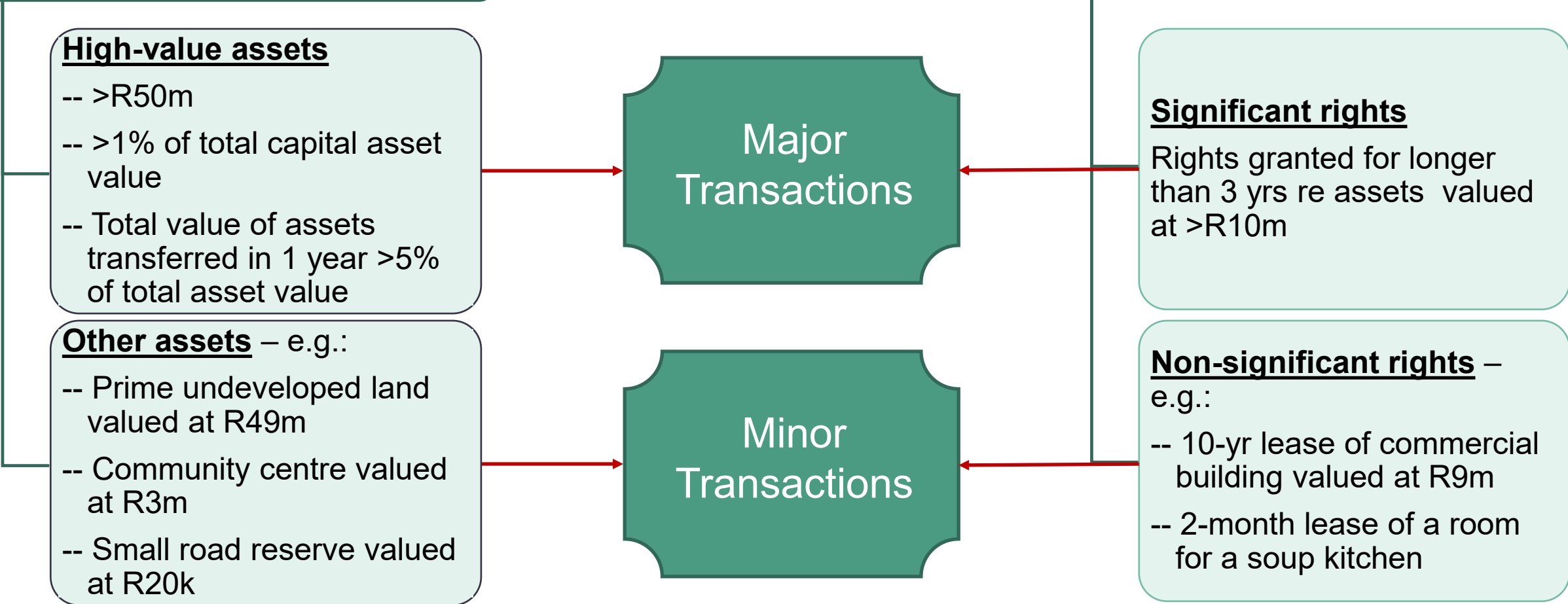
## Lease

**Significant rights**

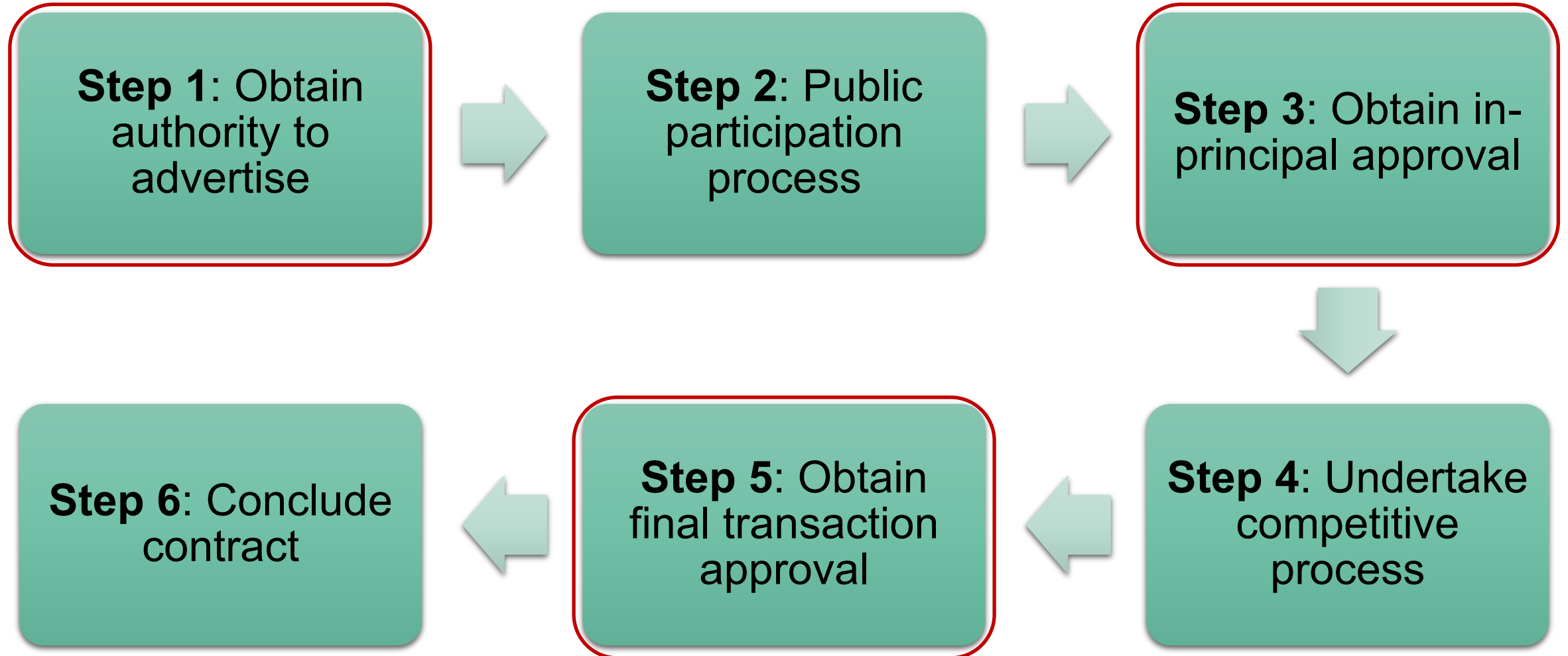
Rights granted for longer than 3 yrs re assets valued at >R10m

**Non-significant rights** – e.g.:

- 10-yr lease of commercial building valued at R9m
- 2-month lease of a room for a soup kitchen



# Municipal Asset Transfer Regs: Transaction Process





# Methodology

- Qualitative approach
- Multiple case study design: selected South African metropolitan municipalities



# Selection Filters



Metropolitan Municipalities



Well-functioning



Financial & human resources



Clean audits

# Case-study municipalities



eThekweni Municipality



City of Cape Town



# City of Cape Town



Size: 2 441 km<sup>2</sup>



Economy: 2<sup>nd</sup>-largest economic hub



Population: 4 772 846



Unemployment rate: 23,9%

# eThekweni Municipality



Size: 2 556km<sup>2</sup>



Economy: Africa's busiest port



Population: 4 239 901



Unemployment rate: 22%

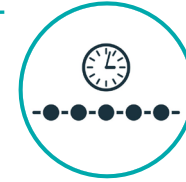


# Data Analysis

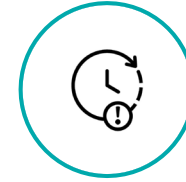
Thematic & Cross-case Analysis



## Procedural Aspects



Overall timeframes



Time-consuming aspects



Procedural Challenges



Legislative Shortcomings

# Procedural Aspects

- Lengthy transaction approval timeframes
  - Sales take longer than leases
  - Lease transaction timeframes vary
  - Timeframes can be shortened by using delegated authority
  - Long delays deter developers and investors
  - Lengthy timeframes increase project costs, delayed municipal income, budget shortfalls
- Managing public participation process
  - Different stakeholders with conflicting needs





# Legislative Shortcomings

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- Extensive and cumbersome legislation
  - Requires authorisation at multiple points
  - Repetitive steps
- Legislation not fit for purpose
  - Procurement legislation not suitable for property sales & leases
- Impact on Social Value Delivery
  - Tender & procurement processes delay social value delivery
  - Previously disadvantaged & small businesses excluded



# Recommendations

Procedural Challenges / Legislative Shortcomings	Recommendations
Municipal council considers the same transaction repeatedly during different approval stages	Remove process duplication by combining certain steps or delegating approval authority
MATR do not distinguish between social value transactions and commercial transactions	Tailor approval process for social-value transactions
Municipalities cannot prioritise social-value transactions	Amend legislation to enable the prioritisation of transactions that create social value
Outdated thresholds in legislation are out of touch with current market values	Update legislative definitions & financial thresholds to align with prevailing market conditions
Subletting of municipal property is prohibited	Remove legislative requirements that are inconsistent with property norms

# Conclusions

- Municipal immovable property transactions do not provide optimal social value delivery
- This is largely due to extensive and restrictive legislation governing these transactions
- There is scope to streamline legislation to enhance social value creation by municipalities



# Thank You



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