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Property Valuation Regulations: current use…whatever happened to sustainable use?

South Africa's Valuer-General, an office created by the Property Valuation Act, will receive public comments up until the 21st of June regarding its proposed methodology to calculate the value of land identified for land reform. The Act mandates the Valuer-General to value land not according to market value, but according to the 'just and equitable' methodology used in section 25 (3) of the constitution to calculate compensation upon expropriation. Unlike the 'just and equitable' concept in the constitution which is a flexible instrument providing a framework for courts to make a value judgement, the draft regulations prescribed by the Valuer-General provide a fixed formula which reads as follows:

'value' = [(<u>'current use value' + market value)</u> /2] – historical acquisition benefits and state subsidies.

'Current use value' is not calculated in the same manner as productive value and is simply defined as the net present value of cash inflows or other benefits that the property generates for the owner under lawful use. In other words, the 'value' will largely be based on the difference between market value and the income the property generates for owner at any given time. This formulation poses a number of serious questions; is this fair towards landowners that acquired their land through market-based transactions? And what about bond holders who extended loans on the basis of market value? These are legitimate questions that deserve thorough investigation and debate, however an interest that risks being overlooked in the process is that of the land itself. If the emphasis is so heavily placed on current use and the value it generates, sustainable use may become a luxury agricultural land owners cannot afford.

In the event that the current use value plays the central role in determining the value of land, it could result in the bizarre situation where agricultural land owners are rewarded for exploiting the soil on a short-term basis to maximise profits. In the regulations, both the definition of 'current use value' and 'net present value' places the emphasis on the amount of money that the land generates at the time of valuation. In other words, if an owner is aware that the state may value his or her land imminently to acquire it for land reform purposes (as would be the case for instance where there is a land claim nearing finalisation), it would be in his best interests to maximise the profit generated from the land at that particular period in time as it would naturally result in a higher valuation of his land. Unfortunately, this could have long-term adverse impacts on the soil fertility or veld condition, a problem that the land reform beneficiary will then inherit.

This result will naturally effect the long-term sustainability of the agricultural enterprise on the farm. South Africa is generally speaking not well endowed with agricultural resources as only 13% of our land is suitable for tillage and much of the remaining grazing land considered marginal. It is in within this context that so much emphasis is placed on preserving and conserving the soil so that it can retain the ability to provide food and fibre sustainably for future generations. Farmers have also play a leading role in soil and veld conservation by practicing crop rotation and even refrain from planting at all in certain seasons so as to permit in the soil to recover. Likewise, pastoralists need to practice veld management and reduce grazing intensity at times to prevent pastures from becoming over-grazed. In both scenarios, farmers forgo short term productivity in favour of long term sustainability. This should not be seen as land owners not using their land productively but rather as a long-term investment into sustainable agriculture. Sustainable use plays such a central role in agriculture that the state has even enacted legislation to promote sustainable use.

However, if 'current use value' plays such a prominent role in valuations, farmers may well be forced to abandon these sustainable approaches to ensure they receive a fair valuation for their land. Not only would this endanger the long-term prospects of the agro-food sector but also fly in the face of legislation such as the Conservation of Agricultural Resources Act and the draft Preservation and Development of Agricultural Land Act from the Department of Agriculture, Forestry and Fisheries. Ironically, the nett effect of this approach will could actually undermine the land reform process as beneficiaries could be handicapped by receiving land that is severely degraded or over-grazed, an outcome that must surely be avoided at all costs.

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