

Title: Lock-outs and constructive evictions amongst students and other rental tenants

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Abstract:

Security technology at the entrance to apartment buildings is not just used to control visitors: it can also be used by landlords to control tenants. Our exploratory study focuses on this important but understudied use of security technologies.

Access control, we argue, has played a key role in attempts to re-establish mid-to-high-rise buildings within the formal property market of inner city Johannesburg: it is used to serve the needs of residents in rented buildings but it can also be used against them by landlords seeking to discipline or punish their tenants.

Our scoping study suggests that lock-outs are sometimes used to police a tenants' breach of contract of non-payment of rent but may also be used in a more arbitrary fashion. In extreme cases, lock-outs may constitute an illegal eviction.

Lock-outs can have severe impacts on people's lives and livelihoods. Our report argues that this facet of access control deserves greater attention from academics, policy makers and legal advocacy groups. To that end, we explore some of the possible data collection methods for the future study of this important topic.

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Abbreviations

AFHCO	African Housing Company
GCRO	Gauteng City-Region Observatory
NSFAS	National Student Financial Aid Scheme
PIE	Prevention of Illegal Eviction Act from and Unlawful Occupation of Land Act 19 of 1998
RDM	Rand Daily Mail
SERI	Socio Economic Rights Institute

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1 Introduction

Walk into any block of flats within Johannesburg and you are likely to encounter some form of door, gate or turnstile. In part, this security exists to make those who live in the flats feel protected but it is also there to help those who own the flats to manage their property. The gates and turnstiles at the entrance to a block give management the power to enforce 'lock-outs' on residents, particularly when they are behind on rental payments.

In other words, access control systems can serve a range of different purposes. Their significance is only likely to increase as the re-situating of inner-city spaces into the formal market continues. At present, however, there is no systematic study of how lock-outs happen, their frequency, and their impact upon people's lives. Whilst the mass-eviction of residents in 'hijacked buildings' has received some academic attention, the same cannot be said of individual residents who are temporarily or permanently excluded from their flats. Our research addresses that gap, focusing on blocks of student accommodation in Braamfontein along with the experience of non-student tenants in Johannesburg and beyond.

Our report is structured into three key sections: First, we explore the broader transformation of the rental market in Johannesburg, which has shaped the inner city. These developments have created evolving patterns of inclusion and exclusion. It is against the background of these broader shifts that we situate the rise in private student accommodation. We argue that access control has played an integral role in re-establishing and consolidating the formal rental market in the inner city. It should, therefore, come as no surprise that it is also playing a vital role in student accommodation in these spaces. Access control, we argue, can benefit residents but it is also open to abuse by landlords, who may use it against their tenants.

Second, we map different forms of access control in mid-to-high-rise buildings and precincts in which they are situated. Our purpose is to explore the array of security measures that may shape building access and the legal limits of these mechanisms in post-apartheid South Africa. At their most extreme, we argue, 'lock-outs' can represent a form of forced eviction, which are illegal if they are imposed outside of a court-sanctioned process.

Finally, having explored the political, economic and legal context in which access control operates, we turn to our pilot study, which attempted multiple different methods for collecting data on this issue: an online survey of students who have experienced lock-outs, an analysis of online reviews by tenants of landlords, an analysis of news articles and advertisements on the student housing market and interviews with stakeholders. After sharing some of the strengths and limits of these approaches, we outline the findings of our pilot study which, we hope, will lay the groundwork for further research on this important topic.

2 Transforming property markets, evictions and student rental: key themes from the literature

Drawing on broad range of literature, we situate lock-outs within the broader political economy of mid- to high-rise market transitions. Below, we argue that access control provided a key form of control as developers and existing landlords sought to invest within the inner city. This control serves two purposes. First, it allows owners to secure their assets as rentable living spaces which could attract rent paying tenants. Second, the same technologies allow landlords to discipline tenants by locking them out when, for example, tenants fail to pay rent. Lock-outs, in other words, should be seen as part of the ongoing struggle for control between owners and residents (formal and informal) that has shaped the history of inner city Johannesburg.

2.1 Transitions in inner city Johannesburg: from the 1970s to the 1990s

In central Johannesburg, more than most other parts of the city, the terms upon which urban space is governed and managed were dramatically unsettled during the final decade of apartheid. Having evolved as a corporate and residential space designated for white occupation under apartheid, established models of producing, owning and renting residential spaces no longer functioned in many downtown buildings by the advent of democracy in 1994. There were a series of key changes that fed into this transition.

- **Pull to the north:** From the 1970s, urban growth in and around Sandton (12 km north of downtown Johannesburg) created locations to live, work and shop that were attractive for a variety of reasons, including cost, lifestyle and an incentive scheme for first time home buyers (Crankshaw and White 1995). Residents and businesses who had been established in the inner city began to relocate north even before there were ‘push’ factors that more strongly deterred them from the inner city.
- **Pent-up demand:** Under apartheid, there was an inadequate quantity of housing in general for Black residents (i.e. African, coloured and Indian residents) (Crankshaw and White, 1995). Moreover, Black residents had not been able to live in well located spaces as a result of segregationist laws. There was therefore considerable demand from Black residents for accommodation in the inner city. With some space becoming available because it had been vacated by former residents of the area who were now moving to the north, the inner city began to desegregate from the 1970s. Landlords were also keen to charge higher rents to residents whose bargaining position was weakened by their insecure legal status in the city (Bremner 2000).
- **A decrease in the average income of residents:** At the residential level, the exodus of white middle-class residents from the inner city resulted in a change in the inner-city housing market (Crankshaw and White 1995). Apartheid had segmented the job market to preserve better paying jobs for white people. Although newcomers were often more financially able than many of those they had left behind in townships (Morris 1996), they were nevertheless not as wealthy as the white residents who had departed. How these dynamics played out across the city varied, including resistance through rent strikes or coping strategies such as subletting, which led to overcrowding (Crankshaw and White, 1995, Frenzel 2014). By the 1990s, investment in many buildings was declining, with stark consequences for residential infrastructure and services (Bremner 2000). Key areas like Hillbrow and Yeoville were red-

lined by the banks (Morris 1996). Nonetheless, the flow of internal and cross-border migrants searching for affordable accommodation in the city continued (Ibid).

- **The abandonment and ‘hijacking’ of buildings:** Some owners of buildings transferred control to agents who had no interest in maintenance or long term financial viability of buildings (Crankshaw and White 1995). Others were simply abandoned by their owners. Over time, such buildings were occupied by residents who were governed through ‘informal rental markets’ (Frenzel 2014, Harrison et al 2014, Murray 2008). Branded as ‘slum towers’, ‘vertical slums’, or ‘hijacked buildings’ (Brown 2017), these tower blocks became a focal point of concern for the municipality. Conditions within these buildings could be stark. Where utilities were no longer paid, buildings did not have electricity, sewerage, water or refuse removal. Nevertheless they provided accommodation for around 60 000 residents who would not be able to afford rental on the private market (Wilson interviewed on SABC News 2018).

As demonstrated above, a range of factors coalesced to deter investment in some mid-to-high-rise blocks across the inner city. Over time, cycles of disinvestment and infrastructural decline became hard to break, because the investment needed to mend the disrepair escalated, redlining limited the financial investment available and, for some, the ‘bad buildings’ became symbols of the ‘ungovernability’ of urban space in the inner city (Dinath 2014). At the turn of the century, however, the municipality made renewed efforts to break these cycles, which would shift patterns of exclusion and inclusion across the city.

2.2 ‘Better Buildings’: Development and displacement since the 2000s

From the 2000s onwards, there have been efforts to formalise rental markets in dilapidated mid-to-high-rise buildings in a process that has raised hopes of improved living conditions while also prompting concerns about gentrification within the city (Goo 2018, du Plessis 2005, Walsh 2013). A key part of this transition, has been access control. This control has made residents feel better able to protect themselves and it also made owners feel better able to protect their assets. As our study will demonstrate, sometimes these two forms of protection collide.

Several key factors drove moves towards the re-development of inner city tower blocks in the 2000s, stabilising the formal property market in these areas.

- **Ongoing demand from working class and lower middle class residents:** Although many residents of the inner city would not be able to afford rental on the private market because their livelihoods did not generate enough income, there remains a strong demand for reasonable quality rental stock from black working class and lower middle class tenants who have regular salaried income. Throughout the 1990s, a high proportion of black residents were employed in white-collar and semi-professional work in and near the CBD (Crankshaw, 1995). Therefore, these residents constituted a market that would be able to pay for the utilities that would sustain reasonable conditions in many inner-city apartment blocks.
- **Government incentives:** In an effort to order to promote inner-city redevelopment, the City of Johannesburg Metropolitan Municipality (CoJ) instigated what was initially called a ‘Bad Buildings Policy’, later known as the ‘Better Buildings Policy’, from 2001 until the late 2000s (Royston et al. 2017). This policy incentivised developers to take over derelict buildings and redevelop them through a property- and market-led partnership led between CoJ authorities and property developers in an aim to boost property values in the inner-city (Rubin 2014). Over the years, the state has also initiated other policies aimed at urban regeneration, namely:

the Seven Buildings Programme (1997 to 2002), the Inner City Regeneration Strategy (2003 to 2007), the Inner City Regeneration Charter and Inner City Housing Action Plan (2007) and the Inner City Property Scheme (2007 to 2013) (Mabasa, 2018). These policies identified ‘bad buildings’ which were at the centre of the policies reinvention and the renewal of the City, either for the demolition or urban regeneration purposes.

- **Interested developers:** In response to these policies, a new cohort of property developers began redeveloping some of these buildings. Some inner-city property owners regarded the policy as an opportunity to turn a quick profit from the redeveloped buildings whilst others regarded the policy as an opportunity to provide safe and affordable housing for lower-income inner-city residents (Mosselson 2017, Rubin 2014). Thus, we see different forms of development underway across the city: A new cohort of developers has successfully established themselves in Hillbrow, providing stable working class rental accommodation (Mosselson 2020). Developers in Maboneng have repurposed the neighbourhood for a more affluent market (Gregory 2016). Meanwhile, some developers have specialised in the provision of student accommodation in places such as Braamfontein (Gregory and Rogerson 2019).

The viability of these revenue streams relies on the tight management of buildings and their environs (Todes and Robinson, 2019). Therefore, access control should be seen as sitting at the centre of the story of development in the inner city. Here, we use the term ‘development’ in a normatively neutral context. This process has been both inclusionary and exclusionary. On the one hand, Mosselson (2015) argues, it has provided accommodation for black working class residents and students. These populations of people were not historically given access to these well located residential areas and *should* be included in the spatial transformations that are shaping the core of the post-apartheid city. Questions remain, however, over the extent to which these structurally disadvantaged groups have benefitted from such developments relative to more structurally advantaged groups as well as the terms of inclusion that they face. Development, for example, has led to mass evictions within the inner city and access control over the sites that remain.

We argue that the regulation of access to buildings offers two kinds of control. On one hand it secures the living space and makes it marketable. Those who rent in such spaces will have some protection from intruders, excessive sub-letting, hijacking and the disruption of services (such electricity, water and refuse removal) due to the non-payment of utility bills. Invasive private security measures in the neighbourhood can be considered legitimate and desirable by many of those subjected to them because they too seek regulation of their living environments (Mosselson 2019: 19).

The second form of control provided by access control systems is that it gives landlords a disciplinary mechanism over tenants. Building management is achieved through the ‘pacification of tenants’ who are treated as customers rather than active citizens (Mosselson 2015: 220). Access control mechanisms give enormous control to landlords to lock tenants out in an instant when, for example, tenants miss rent. To be sure, managers of buildings can apply this power flexibly and with compassion, cutting some tenants slack or trying to accommodate their difficulties (Mosselson 2015: 216). Nonetheless, they ultimately have considerable powers at their disposal.

2.3 The rise of student accommodation

It is within these broader shifts in the urban landscape that we need to understand the rise of student accommodation. Across Africa, there has growing attention to the ‘emergence of student housing as a

new alternative asset class'.¹ This should be seen as the continuation of a growing shift towards the commodification of student housing across the globe.² Home to several leading universities, Johannesburg has become a key site of development for private investors. Student accommodation should be seen, therefore, as one of several sub-types of residential investment. As we explain, student housing is positioned in the market as a good potential investment but students themselves are also couched in a discourse of risk and unreliability, which may make landlords more likely to use access controls *against* rather than *for* their tenants.³

2.3.1 The rise of private student accommodation in South Africa

Historically, tertiary education students have been accommodated in three main ways: they have stayed at home with their parents and commuted to college; they have stayed in university residences; or they have rented accommodation from landlords of apartments or detached housing. Since the transition to democracy, the quantity of students that require accommodation has increased because tertiary institutions have taken on increasing numbers of students. On-campus accommodation remains a much desired form of accommodation by students, and given this need, the state has embarked on a Student Infrastructure Housing Programme, aiming to supply an additional 300,000 beds for university and vocational college students (Knight, 2019). Notwithstanding these investments, demand for accommodation at tertiary institutions far exceeds supply.

A large number of students are not wealthy (Hamann and Joseph 2020), and are unable to afford their own accommodation near universities without support. Some property owners in residential areas close to education institutions have created more affordable accommodation by installing internal divisions within houses, creating a large number of rooms, and making up their rental income through a large quantity of student tenants. Some neighbourhoods have been affected by the much more intensive use of space.

As noted in the literature review above, developers of rental stock in inner city areas from the 2000s have conventionally provided housing for salaried tenants who can afford a rent that meets the costs of refurbishment, maintenance, security and location. Students are not generally salaried. They only require accommodation during their academic programme and tend to move out of their accommodation over vacations (PropertyFox, 2018). Despite this, there are several reasons why students are attractive to developers. They can be accommodated at high densities and they are positioned as being relatively flexible on some aspects of their accommodation. More importantly,

¹ <https://propertywheel.co.za/wp-content/uploads/2016/08/Student-housing-a-new-asset-class-in-SSA-August-2016.pdf>

² There is a large and growing international literature on student accommodation (Hubbard 2008, Chatterton 2010). Mulhearn and Franco (2018) discuss how 'studentification' in the UK has resulted in the reshaping of many towns and cities. However, the momentum in the construction of purpose-built student accommodation neglects wider market conditions and carries wider risks. There is also an emerging literature on student housing in South Africa, including on student accommodation in Bloemfontein (Ackermann and Visser 2016), Stellenbosch (Donaldson et al 2014), Cape Town (Uche et al 2010), the University of Zululand (Ndimande 2018) and Braamfontein, Johannesburg (Gregory and Rogerson 2019). These international and local studies develop a variety of themes. They examine the changing nature of local student markets themselves by examining how long standing and new supplies of accommodation have emerged in response to longstanding and new forms of demand. They break these down into different kinds of student accommodation: from purpose built housing to converted suburban homes (Ackermann and Visser 2016). They consider transformations of neighbourhoods that come about as a result of these dynamic demands and supplies, with some neighbourhoods going upmarket in a process of student led gentrification, and others going downmarket (Ndimande 2018, Ackermann and Visser 2016). They consider justice and exclusion both as far as students are concerned and other residents of cities within which studentification is occurring.

³ <https://www.thesouthafrican.com/lifestyle/property/investing-in-student-accommodation/>

state funding to students through the National Student Financial Aid Scheme (NSFAS) has provided students with the financial means to afford better accommodation than they would have without this support.

The scheme was started in 1996 and, until 2018, was structured as a loan which beneficiaries were expected to pay back once they started working. In response to the FeesMustFall protests at higher education institutions in 2015 and 2016, which demanded free education, the then President, Jacob Zuma, announced in 2017 that tuition would become fully subsidised for poor students from 2018. Both during the loan period of the scheme and the subsidisation period, the funding could be spent on accommodation once fees were paid for. Funding for accommodation was paid directly to approved providers of student accommodation.

Students who paid lower tuition fees had more of their NSFAS funding left over for accommodation. For example, since the University of Johannesburg charges lower fee than the University of the Witwatersrand, University of Johannesburg students have significant capacity to rent accommodation (Gregory and Rogerson 2019). Some students who do not have enough money in their NSFAS funding to cover their accommodation costs need to find additional funding, an issue that was raised during the 2015-2016 FeesMustFall protests.

NSFAS funding has, in effect, underwritten the growth of the private student accommodation sector. According to James Gregory, a researcher working on this sector,

“the main reason why these investors are entering the student market is because of the NSFAS link. It’s a guaranteed rental income. They see it as less risky - the money is paid directly from NSFAS to the supplier. It’s not the student’s responsibility to pay the rent.” (Interview with James Gregory, 26 July 2019)

Private provision of student accommodation has therefore transitioned from partitioned houses to purpose built accommodation:

“[The student accommodation industry] is driving towards maturity. We now see a second wave of investment happening, where we are moving away from home-owners converting homes into communes but [rather] we are now seeing property developers ... larger companies ... investing in purpose-built student accommodation.” (Interview with James Gregory, 26 July 2019)

Companies such as South Point recognised a gap in the provision for student housing, and it now accommodates 5000 students in 13 buildings in Braamfontein (Gregory and Rogerson 2019). Initially developers refurbished old office building stock. More recently they have begun building their own buildings for student accommodation. One, adjacent to Wits University, is 17 storeys high.⁴

The investment discourse surrounds these developments in the inner city positions students as a

⁴ As Gregory and Rogerson (2019) explain, Braamfontein is immediately north of the Johannesburg CBD, and was built up into high rise office space from the 1950s to the 1980s. Braamfontein experienced, to some extent, the stagnation and decline that affected inner city areas in the 1980s and 1990s as a result of capital flight. During the 1990s its built environment was mainly occupied by ‘low-end office activities’ (Gregory and Rogerson 2019: 182). As the 2000s progressed, conditions for private sector investors improved, with the investment in public spaces by the Johannesburg Development Agency (formed in 2002), and improved urban management following the creation of the Braamfontein Improvement District in 2004. The city provided incentives to developers to invest in the space.

tempting but potentially risky investment. Risk, in this context, is not just seen in terms of short letting horizons. Commentators also place heavy emphasis on the idea of students as an unreliable and potentially irresponsible sub-set of tenants.⁵ This discourse arguably encourages the idea that access control might be needed by investors as much to protect their property as to protect their tenants. Perhaps more than their fellow property developers throughout the city, access control sits at the heart of property development practices.

2.4 Conclusion

The city of Johannesburg has seen widespread changes in urban life over the past fifty years, with the crumbling of apartheid geographies and the emergence of urban spatial logics. One part of this broader story is the place of mid-to-high-rise rental properties in the city. From the 1970s onwards, many buildings began contested terrains, with struggles over rates, rentals and investment. The ‘bad buildings’ that emerged from this contestation were often in a state of disrepair but they also offered an important source of housing for city residents on the economic margins. From the 2000s, there has been a push to re-develop such buildings, which has created fresh patterns of inclusion and exclusion. This includes the increasing push towards private investment in student housing. At the heart of this re-development have been tactics of access control, which have sought to protect both the landlord’s tenants and their investments. This has given landlords a great deal of potential control over their buildings. In the following section we explore the legal parameters of these powers.

⁵ <https://www.thesouthafrican.com/lifestyle/property/investing-in-student-accommodation/>

3 Mapping access control: The legal limits of leverage

Access control has played a central role in efforts to stabilise the formal property market in inner city Johannesburg. In this section, we explore the scope of this access control and its legal parameters. In particular, we focus on evictions. Most attention has been on the eviction of residents of buildings that are being prepared for refurbishment. We argue that when residents are locked out of refurbished buildings as a part of the management of these spaces, this can constitute a form of eviction. To date, however, this is an understudied phenomena by academics, activists and legal practitioners.

3.1 The scope of access control

Access control can operate on multiple different scales and to different ends. Below, we highlight two key scales at which access control has functioned within inner city Johannesburg.

At a neighbourhood level, property owners can instigate City Improvement Districts (CIDs) to fund urban management and private security initiatives. CIDs may be voluntary but they can also be formalised. In the latter case, if the majority of property owners vote in support of creating a CID within a particular area, additional levies are placed upon all property owners in order to support additional services in the area (Mkhize and Mosselson 2019, Mosselson 2019). Such initiatives can effectively serve as a form of access control to putatively public spaces (Samara 2011).

At a building level, owners can use a variety of interventions – including security guards, keys, tags, cards, codes and fingerprint readers – to control access to their properties. As mentioned in the section above, these can be aimed at protecting residents within the property but they are also aimed at protecting the property itself as an investment. At times, these two aspirations collide, and access controls are used to discipline residents. Our interest in this section is on establishing the legal limits of these disciplinary technologies. At their most extreme, lock-outs constitute a form of constructive eviction. As such, they fit into a broader pattern of evictions linked to development within inner city Johannesburg which appear to contravene South Africa's legal framework for eviction. Below, we explain this legal framework before exploring what evidence we have of evictions within inner city Johannesburg, highlighting the gap in knowledge around lock-outs as a form of eviction.

3.2 The legal parameters of eviction in post-apartheid South Africa

Under the rule of colonialism and the apartheid regime, forced evictions were systematically used to re-engineer the landscape of the country for the benefit of a racial elite (Du Plessis 2005, Strauss and Liebenberg 2014). These systematic interventions were enforced by the promulgation of the Native Land Act of 1913 and the Development Trust and Land Act of 1936, with both Acts limiting the ownership of land by Africans outside of reserved settlement areas, often resulting in mass evictions and displacement (Robertson 1987 in Strauss and Liebenberg 2014). The apartheid regime began to unravel from the 1970s and South Africa became a democratic country in 1994.

A key outcome of the democracy was to adopt enforceable socio-economic rights as well as to redress the causes of past and present marginalisation and social injustice in the country (Strauss and Liebenberg 2014). Accordingly, the South African Constitution was enacted in 1996, and is well-known for entrenching a number of socio-economic rights to citizens of the Republic of South Africa.

The Constitution recognises that land can be illegally occupied for a number of reasons, which demonstrates inequitable access to land resources and housing for the poor (Huchzermeyer 2003) and therefore speaks directly to the right to adequate housing and protection from forced evictions in sections 25 and 26 (Strauss and Liebenberg 2014). Moreover, the PIE Act (Act 19 of 1998), which replaced the Prevention of Illegal Squatting Act (Act 52 of 1951), criminalises unprocedural and wrongful evictions (Huchzermeyer 2003). The PIE Act in conjunction with the Constitution of the Republic of South Africa also set out a list of guidelines for the lawful eviction of tenants.

According to the South African Board of Sheriffs (2017), a tenant must be notified 14 days prior to the impending eviction, the law must establish the lawfulness of the occupancy by the tenant and the eviction by the landlord, the Sheriff must be in possession of an eviction notice signed by the registrar of the court when performing an eviction, the eviction notice must have a clear date of when the eviction will be executed, the landlord must hire security to conduct the eviction in the presence of the Sheriff, the Sheriff should be able to answer any arising questions from the community leader, people being evicted should be granted the opportunity to leave with their possessions and in some cases the Sheriff may have to assist with transportation (Vilakazi 2018). The Act also makes different provisions for eviction based on the length of stay on a particular immovable property. In cases where the illegal occupant has stayed for a period longer than six months, provisions must be made for alternative accommodation. Whereas in cases where illegal occupation is below a period of six months, an eviction order may only be granted if all other circumstances have been considered (Republic of South Africa 1998). Specifically, it is a requirement of the PIE Act that a court may not grant an eviction order unless the eviction order is just and equitable, which requires the court to take various factors into consideration prior to granting the eviction notice, such as the age and gender of occupants (SERI 2016).

Notwithstanding these legal and constitutional provisions, illegal evictions are still occurring at a near-daily rate in post-apartheid South Africa, although the scale at which these evictions are taking place is notably less than during the apartheid era and mostly driven by dynamics other than racial segregation. There are clear trends to forced evictions in post-apartheid South Africa. Below, we focus on some of the evictions that have surrounded the development of mid-to-high-rise property within inner city Johannesburg.

3.3 Development and displacement in the Johannesburg inner city

The existing literature on evictions in Johannesburg shows that evictions are not a new phenomenon in the inner city and various townships; however, the driving forces behind these evictions have changed. Historically, evictions were used to promote racial agendas, gradually changing to succumb to the influence of capitalist logic.

Since the 2000s, evictions have accompanied efforts to stabilise the formal property market in the inner city, during attempt to remove those who have occupied buildings in order to refurbish them for a rental market. As noted above, the state has been active in the identification of ‘bad buildings’ either for the demolition or urban regeneration purposes. These new policies adopted by the City omitted details of what should happen to current residents occupying buildings controlled under these policies, which often resulted in the eviction of poor and low-income households. Du Plessis (2005) notes that accurate numbers of people who have been affected by evictions driven by these regeneration policies may be difficult to obtain until such time when comprehensive monitoring systems are established. However, according to the Centre on Housing Rights and Evictions (2005), some of the buildings identified as ‘bad buildings’ may have housed over 67 000 people at the time, some of whom already could not afford their rentals.

As the evictions continued between 2000 and 2006, and the legality of these process was questioned, the City used building health and safety legislation to acquire urgent court orders for the eviction of people living in the so-called ‘bad buildings’, which and ordered the occupiers of these buildings to vacate the premises and not re-occupy them without written consent from the City. The City treated these evictions as matters of urgency, to limit the time that evicted occupiers would have to get adequate legal representation, so a majority of these evictions went unopposed (Wilson 2017).

Stories on evictions in the inner city have been publicised through various media outlets. In 2012, the constitutional court ruled against the CoJ, after finding the City guilty of violating the rights of 11 people who were moved from 7 Saratoga Avenue, between Doornfontein and Hillbrow, to a shelter, where they were further split into male and female dormitories (Sekhotho 2012). In 2017, the CoJ went ahead with plans to conduct raids on 11 illegally occupied buildings (Mabasa 2018). Also in 2017, 184 people agreed to being evicted from a block of flats called Kiribilly, in Berea, without knowing their rights (Pather 2017). In 2018, a stand-off regarding the amendment of the PIE Act was reported between the CoJ and organisations representing poor residents such as the Socio-Economic Rights Institute (SERI), South African Civic Organisation, Wits Law School and other concerned groups and political parties. This stand-off led to a change in the definition of unlawful occupation to include people who had initially lived in an establishment with consent (Nevin 2018). And in May 2019, illegal structures in informal settlements were demolished in Alexandra and thousands of residents were evicted by Red Ants claiming that they were occupying land illegally (Ngcobo 2019). What is evident in many of these cases is both the tensions between permissible planning laws, political will to drive property development and strict guidelines on lawful eviction (Berrisford and Kihato 2006, Wilson 2009, Strauss and Liebenberg 2014).

This survey of literature on tower block evictions in Johannesburg demonstrates that such studies are mostly exploring evictions that occur in the process of re-development, rather than evictions that occur in the wake of re-development. Those studies which do tackle the latter, argue that forced evictions are increasingly being used to recover lost revenue by replacing non-paying tenants with paying tenants (Du Plessis 2015). According to Vilakazi (2018), tenants are often not aware of their evictions and seldom receive notices on their impending eviction. In addition, some of these tenants are evicted in their absence, which may come with a loss of personal belongings as their belongings are tossed into the streets, which directly violates one’s right to dignity and privacy (Skosana, 2019). Alternatively, evictions can constitute constructive evictions, where the living conditions of an accommodation become untenable, for example through the termination of utilities.

3.4 Conclusion

Access control has played a central role in the public and private push for redevelopment within inner city Johannesburg and the reconsolidation of its formal property market. Such control can take varied forms, operating at the level of a neighbourhood or precinct; building; and individual property. The most extreme form of access control is eviction. Despite the strict legislation that governs eviction in post-apartheid South Africa, development within inner city Johannesburg has been accompanied by widespread displacement. It is crucial that we study this important trend, but it is also important that we explore the evictions that follow in the wake of development. These have received less attention in the literature. Our pilot study into lock-outs aims to tackle that gap and demonstrate the need for further research on the issue.

4 Studying Lock-outs: Sample and Data Sources

The purpose of this pilot study was to explore the phenomenon of lock-outs. To this end, we experimented with a series of strategies for accessing data on biometric lock-outs and evictions. Together this data was intended to help us get a better understanding of lock-outs as well as the housing market in the inner city.

A key element of the research design was to focus on student accommodation, initially in areas such as Braamfontein and inner-city Johannesburg. Initially, this sampling structure meant that we filtered out non-Braamfontein respondents and initially targeted ‘students’ in ‘Johannesburg’ on social media. However, this resulted in very few responses, and we decided to cast the net more broadly towards the end of the study, from late 2019, broadening it to Pretoria, Durban, Cape Town, Stellenbosch and Bloemfontein. The broadening of the study also meant that although we had initially set out to study student accommodation, some of our data collection processes revealed incidents of lock-outs that were not specific to the student accommodation subsector. We therefore have a mix of data, some of which is specific to student accommodation and some of which is not. The main modes of data collection employed in this study were in the form of an online survey of students who have experienced lock-outs, an analysis of online reviews by tenants of student accommodation landlords or developers, an analysis of news articles and advertisements on the student housing market and interviews with stakeholders. Each of these modes of data collection are discussed in detail below, with an emphasis on how the different types of data were expected to advance our understanding of the phenomenon of biometric lock-outs and evictions.

4.1 Online survey of students

Our main data collection strategy was an online survey developed on Survey Monkey. Having devised the survey instrument we piloted it with colleagues at the GCRO, who were also asked to give comments on the content and flow of the survey content. The survey instrument consists of 26 questions (see the Appendix). The questions covered topics on details of lockout incidents, profiles of those who are locked out, prevalence of lock-outs, types of establishments or developments associated with lock-outs, tenure status and lock-outs, accommodation costs, lockout processes or types and reasons for lock-outs. The last question on the survey asked respondents if they would be interested in meeting us for a follow up interview where they could elaborate on the details of the lockout.

The online survey was promoted using a number of methods:

- Posters: We developed a poster, of which 35 copies were posted around the University of the Witwatersrand. The poster also had a QR code that students could scan to get access to the survey.
- Flyers: 1200 flyers were distributed in Braamfontein.
- Word of mouth: Academic colleagues were asked to mention the study and the survey in their lectures.
- Email: Emails were used to forward information on the study and the link to the survey to former students and colleagues.
- Social media: The survey was promoted on Facebook and Instagram in June and July 2019.

Despite these efforts we got very little uptake. There were 19 respondents to the survey, 6 of whom were filtered out because they had not actually been locked out. Of the 19 respondents only four left their details and reported that they would be interested in meeting with us to discuss their lockout incidence.

4.2 Attempted interviews and focus group of students

The survey invited respondents to leave their contact details so that we could follow up to do a full interview and for them to take us through the details of their lock out incident or the events leading up to their eviction. Four respondents did leave us their contact details. Although we have attempted to reach these respondents in 2020 we have not been successful in securing interviews. The effects of Covid have no doubt played a role in the availability of prospective interviewees.

4.3 Stakeholder interviews

We also sent emails to ten industry players in an attempt to secure interviews with developers, property managers, security companies and other stakeholders. If these actors replied at all it was to say that they were not willing to participate. We did conduct two stakeholder interviews, one with two staff at the Socio Economic Rights Institute (SERI) and one with a University of Johannesburg academic who has published extensively on the student housing market in Braamfontein. The first interview gave valuable insight into the legal processes of evictions as a whole, with the interviewees noting that very few, if any, cases pertained to lock-outs. The second interview gave valuable insight on student accommodation housing markets and the National Student Financial Aid Scheme (NSFAS). Any information deemed applicable to this study was included in various parts of the literature review and findings section of the study.

4.4 Online material

We built an archive of material available online. We found seven newspaper articles on the student housing industry, and a number of advertisements for student accommodation. The aim of this exercise was to identify any information on student accommodation lock-outs or the leading student accommodation providers or developers in Braamfontein and the surrounding area.

We also found 53 consumer review complaints on the Hello Peter website, a platform for South African consumers to provide reviews of their experiences, where we searched for any complaints related to lock-outs and evictions from accommodation. The following five student accommodation developers and/or providers were identified and subsequently investigated on Hello Peter: South Point, Mafadi, Dunwell, CitiQ and African Housing Company (AFHCO). Table 2 below shows the number of lock-outs recorded per student accommodation developer or provider, based on the Hello Peter search. The findings from this exercise were used to supplement survey responses.

The web and manual search for relevant data on lock-outs and evictions revealed that while there is a wealth of data on evictions in general, there is very limited data on biometric lock-outs and evictions. Moreover, while academic researchers and stakeholders are willing to speak and give insight on this phenomenon, it is somewhat difficult to get insights from those within the student housing and accommodation subsector, in particular developers, landlords and security companies.

Table 2: Hello Peter reviews relating to lock-outs per accommodation provider or developer.

Student accommodation provider/developer	No. of complaints related to lock-outs on Hello Peter
South Point	4
Dunwell	1
Mafadi	15
CitiQ	3
Afhco	30

6 Findings

6.1 Student rental arrangements

This section examines specific aspects of student rental arrangements from the data collected. Respondents to our online survey were, according to the design of our survey, students who had experienced lock-outs at some point. Notably, only two of the respondents of the online survey said that they were on NSFAS funding at the time of the eviction. Six of the respondents reported that their accommodation had been financed by family or a guardian and three of the respondents said their accommodation was covered by a bursary or scholarship.

Of the survey respondents who disclosed how much they paid for rent at the time of their eviction, only one of the respondents reported that they paid below R 3 000 a month. Two of the respondents paid between R 4 000 and R 5 000 a month and one paid above R 5 000. The most common amount paid for accommodation amongst respondents was between R 3 000 and 4 000, with six respondents reporting that they paid this much. Respondents' rentals are summarised in figure 1 below.

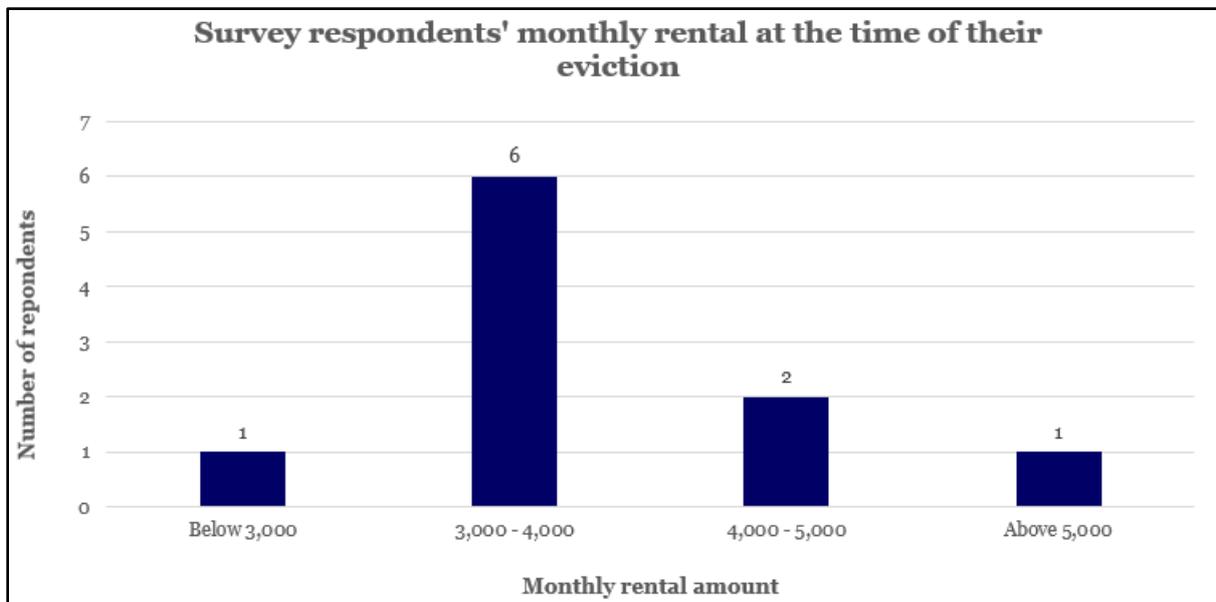


Figure 1: Survey respondents' monthly rental at the time of their eviction

Given that Figure 1 is generated from a small sample of students who had experienced evictions, we supplemented the survey data with a web search. Figure 2 compares rental prices⁶ across six student accommodation providers, with an emphasis on the minimum and maximum price range. South Point Management Services (South Point) offers the most expensive accommodation options, ranging between R 3 375 and R 4 800, and amounting to a difference of R 1 425, between the minimum and maximum costs for accommodation. This is closely followed by Dunwell properties, where prices range between R 3 200 and R 4 700 and there is a R 1 100 difference between the minimum and maximum accommodation costs. The cheapest accommodation option was at the time provided by City Waldorf⁷. And the least variation between the minimum and maximum accommodation prices is

⁶ Based on rental prices for 2019. This information was available on the websites of different accommodation providers and/or developers.

⁷ Only information on single or non-sharing units was available on the City Waldorf website. The website can be accessed here :

observed in CitiQ accommodation with only a R 600 difference, and Mafadi and AFHCO, with a R 875 and R 925 difference between the minimum and maximum accommodation costs respectively.

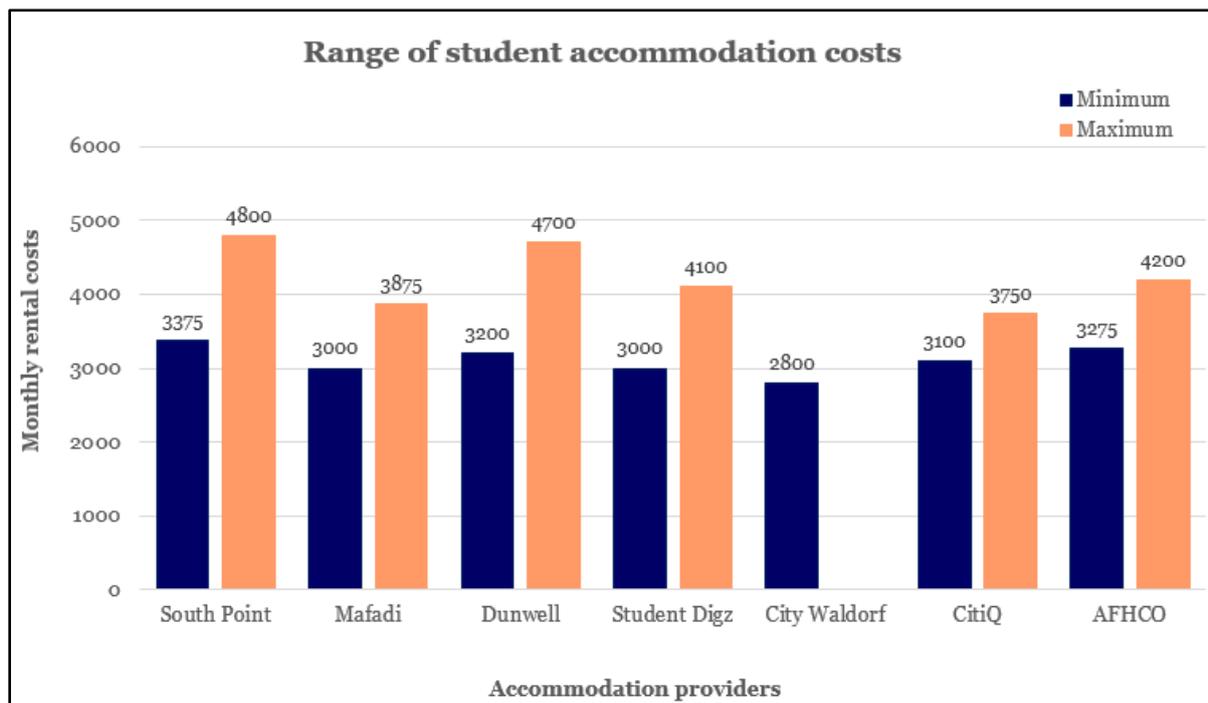


Figure 2: Student accommodation rental range, 2019. (Derived from a web search of six of the largest student accommodation developers and the cost of the related student accommodation).

Table 1 shows variation in accommodation prices charged by each student accommodation provider based on the type of accommodation offered. Accommodation options are broken down into five types, namely: single room/unit, double room/2 sharing, triple room, 4 sharing and 6 sharing. The price charged by each student accommodation provider and/or developer is noted against each accommodation type. Single rooms or units across all student accommodation providers are the most expensive, ranging from R 2 800 at City Waldorf to R 4 800 at South Point Management Services. Similar to findings in Figure 2, South Point Management Services offers the most expensive accommodation options, this is generally across all accommodation types. City Waldorf offers the cheapest accommodation price for single or non-sharing units, which is interesting to note against the accommodation prices by StudentDigz, which charges R 3 000 for a 6 sharing room. Generally, figures in Table 1 indicate that student accommodation providers with slightly cheaper rates also offer more variety in terms of student-sharing accommodation options.

The data in Figure 2 and Table 1 corroborate the survey responses indicated in Figure 1. These findings indicate that most student accommodation or housing costs between R 3 000 and R 4 000, with some between R 4 000 and R 5 000. While very few student accommodation costs less than R 3 000, or more than R 5 000. In addition, Table 1 shows that monthly rental accommodation prices cost more for single room units or for non-sharing options. Noting, however, that some sharing options are still quite pricey, with South Point charging between R3 375 and R 4 075 for a two-sharing option.

Table 1: 2019 rent prices per tenant for six of the largest student accommodation providers in Johannesburg.

Accommodation provider	Single Room/unit	Double room/2 sharing	Triple room/3 sharing	4 sharing	6 sharing
South Point	4 075 - 4 800	3 375 - 4 075	3 375 - 3 600		
Mafadi	3 000 - 3 350	3 250 - 3 875	3 400		
Dunwell	3 200 - 4 700	3 200 - 3 500			
Student Digz	3 720 - 4 100	3 250 - 3 600	3 100 - 3 410	3 100	3 000
City Waldorf	2 800				
CitiQ	3 750	3 250 - 3 450	3 050 - 3 100		
AFHCO	3 600 - 4 000	3 275 - 3 400			

6.2 Profile of survey respondents

Of the 13 respondents who reported being evicted, eight of the respondents reported that they had been evicted in the past were females and four were male. The respondents were in the 18-24 age demographic, which is characteristic of most students in academic institutions.

Noting that most of the respondents who indicated that they had been evicted or locked out in the past also indicated that a form of contract or lease had been signed by either themselves or their guardians. While others reported that the contract or lease had been signed by a roommate's family member or guardians.

Most of the survey respondents, with the exception of one respondent, indicated that they had been residing in either a flat/apartment or some form of student accommodation when they were evicted or locked out. The remaining respondent reported that they had been staying at a University residence at the time of their eviction or lockout.

6.2.1 Spatial patterns of evictions as per the online survey responses

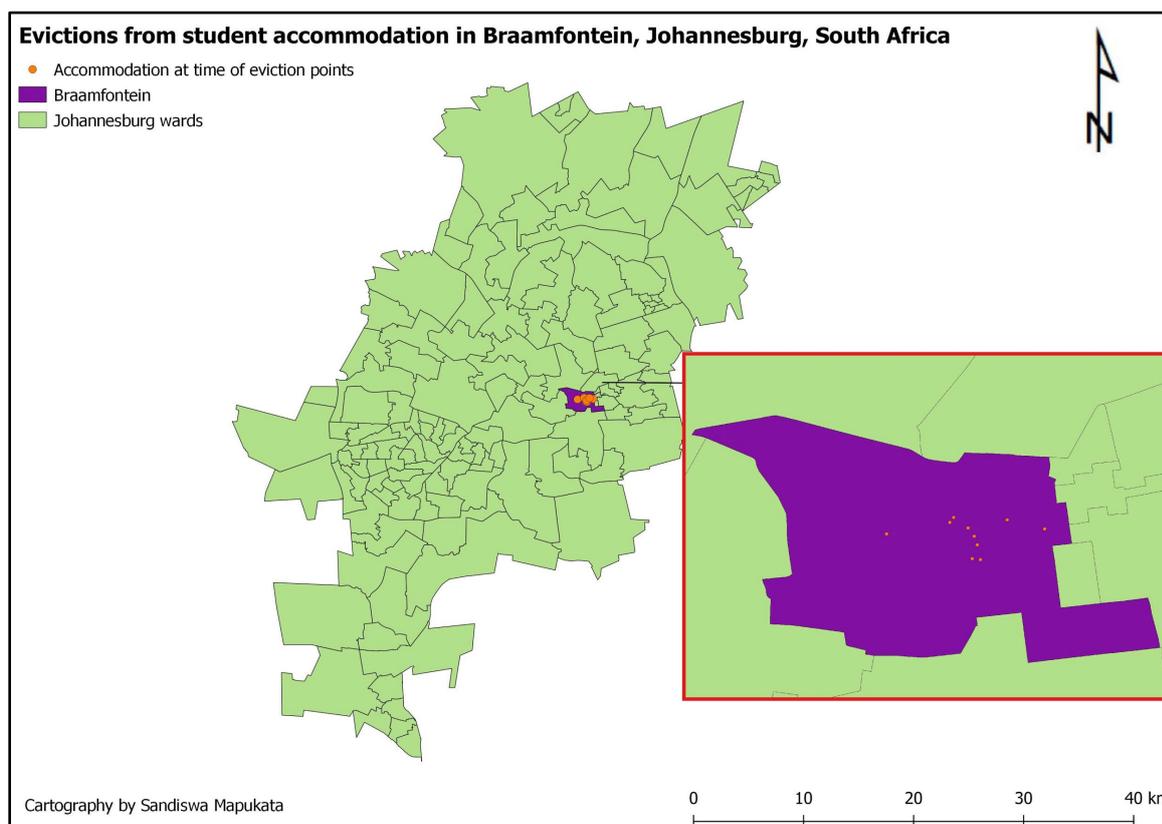


Figure 3: Points of where in Braamfontein, Johannesburg evictions took place, as reported by online survey respondents

As can be seen in figure 3 above, all of the evictions reported by our online questionnaire respondents took place within the Braamfontein area of the City of Johannesburg metropolitan municipality (i.e. Johannesburg) in the Gauteng province. This is largely the effect of our marketing focus for the online survey in which we targeted Braamfontein primarily.

6.3 The use of access control against tenants

6.3.1 Reasons for lock-outs

The current arrangement between NSFAS, universities and the suppliers of student accommodation allow the exclusions of students who either fail at least one academic module (because of their resultant failure to secure NSFAS funding for the following academic year) or fail to raise enough funds for rent payment (Interview with James Gregory, 26 July 2019). James Gregory added that some of the suppliers he spoke to did struggle with implementing the terms of that arrangement between the three parties:

“Some of them [the suppliers] do struggle with that. There was this one lady I sat with...and she says it’s heartbreaking to tell a student that ‘Sorry it’s over. You are out. And NSFAS is not paying for you anymore [because] you have not passed. You can’t continue. You cannot stay here.’” (Interview with James Gregory, 26 July 2019).

Some of the survey respondents also noted that they had been evicted due to non-payment from a bursar. These individuals felt that the student accommodation management should have

communicated directly with the bursary. As noted above, only some of the respondents of the survey were NSFAS beneficiaries, and NSFAS conditions would not have been relevant in their cases. Five of the respondents reported that they had been prevented from accessing their accommodation due to being late on their rent. One respondent reported that they had been locked out due to a flatmate being late on their rent⁸. Three respondents were locked out, despite having paid their rent. Of these three respondents, one reported that they had been locked out because their rent had not reflected yet, another said they had been locked out after writing down the wrong branch number. While another respondent reported that they had been locked out after receiving claims that they had not paid rent, and had to provide proof of payment. Finally, one of the respondents reported that they had actually been prevented from accessing their accommodation after expressing their desire to move out and go to another residence.

Supplementary results of the Hello Peter reviews align with the results from similar studies (e.g. Mayson and Charlton 2015), which suggest that tenants are more likely to be evicted as a result of a failure to meet their monthly rental obligations or behind on related payments. Yet this reason for locking out was disputed by some tenants on Hello Peter. For example, Solomzi⁹ (a resident at AFHCO at the time of posting the review), despite having met their monthly rental obligations, found themselves being harassed by emails requesting proof of payment. There were also reports of incidents where tenants had been locked out after supposedly making payment arrangements with agents who then went back on their word. Meanwhile, Kgothatso H¹⁰, who was at the time residing at South Point reported that their belongings had been confiscated after claims that they were owing R500.

Other complaints on the Hello Peter platform reported that residents had been unable to gain access to their accommodation due to faulty biometric systems. Bafentse N¹¹, a resident at AFHCO noted that they had been locked out after the installation of a new faulty biometric system, which only read a few fingerprints migrated from an old system. Residents in the building received eviction threats and were denied access if they could not make themselves available to update the fingerprints at AFHCO offices.

6.3.2 Implementation and effects of lockout

Among the online survey respondents, six reported that they were denied access to their accommodation by locks being changed/having a padlock added. Eight of the respondents reported that they realised that they had been evicted when the fingerprint access to their accommodation stopped working. Three of the respondents were subjected to a change of locks on their doors and the disabling of their access via fingerprint readers. Similarly, a few complainants on Hello Peter also reported the use of a mix of lockout methods. For example, complaints relating to Mafadi properties

⁸ Most student accommodation charges rent per individual and not per unit. An example of this can be seen in Table 1, which shows how much student accommodation costs. However the findings from the survey suggest that in some cases tenants are locked out collectively, and not just the tenant behind on rent. This suggests that different buildings accommodation managers manage such cases differently.

⁹ Solomzi., 14 June 2016, Hello Peter <https://www.hellopeter.com/citiq-properties/reviews/daniel-justin-is-very-disrespectful-and-lacks-listening-s-s-2052813>

¹⁰ Kgothatso H., 25 July 2018, Hello Peter <https://www.hellopeter.com/south-point/reviews/horrible-south-point-2549946>

¹¹ Bafentse N., 23 July 2015, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/unfair-treatment-of-tenants-1782349>

reported three different methods of eviction. Franschoek T.¹² and Lynn W¹³ reported that their utilities (e.g. water and electricity) were cut-off by the caretaker if rent is late. Joyce M¹⁴ said that they had left their unit around 6pm in the evening only to return to a locked unit three hours later, while Armstrong L.¹⁵ had also come back from work after a long day to find that their lock had been changed. Nicole D.¹⁶, while complaining about an additional charge that had been added to their account, also noted the ease with which fingerprint access is revoked with late rental payments. What this demonstrates (among those who responded to our online survey and the Hello Peter reviews at least) is that although biometric technologies do play an important role in the eviction process, physical methods are also important in the implementation of eviction processes.

Most of the complaints on lock-outs on Hello Peter indicate that most of the physical lock-outs are conducted by security personnel or building managers in the buildings. For example, some AFHCO residents, e.g. Tebogo H¹⁷, Bafentse N. and Pamela M.¹⁸, reported that they would be prevented from gaining access to their apartments if their fingerprint access was not working and security guards or building managers did not know them. Similarly, Lesego M¹⁹, a tenant complaining about Mafadi, reported that they had been denied access into the building when a new feature which limited multiple entries by the same person within five minutes was enabled. Lesego M. reported that the security guard on duty would not let anyone in, even when they had seen you leaving or entering the premises or they knew you well. These complaints suggest that biometric systems may also be making tenants more vulnerable to security guards and building managers of the complexes as they would only let people who they knew into the building. In situations where the security guards or the building manager did not know you, as was the case for new tenants or those who worked different hours, favours of various kinds, including bribes, had to be exchanged.

Two of the respondents did not regain access to the accommodation that they were evicted from. One of the respondents regained access on the same day as their eviction. Another respondent regained access more than a week after their eviction. Most of the online survey respondents regained access between a day and a week from their eviction. This pattern also seemed apparent amongst Hello Peter complainants. For example, Armstrong L. had to spend the night at a hotel after they got home to find they were locked out at a building managed by Mafadi Properties. Another respondent on Hello Peter, Kim²⁰, claimed their unit was not unlocked and they were locked out for the remainder of the day even though they had settled their rent that same day. Kim had to go to the Mafadi headquarters the

¹² Franschoek T., 23 February 2019, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/mafadi-at-it-again-2689547>

¹³ Lynn W, 9 March 2017, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/unlawful-useless-crooks-2224403>

¹⁴ Joyce M., 16 August 2018, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/frustrations-2563467>

¹⁵ Armstrong L., 12 December 2017, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/incompetence-theft-2406671>

¹⁶ Nicole D., 26 June 2018, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/mafadi-property-does-not-consider-their-tenants-horrible-to-rent-with-2532278>

¹⁷ Tebogo H., 17 May 2016, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/faulty-biometric-system-2036787>

¹⁸ Pamela M., 20 February 2016, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/afhco-housing-a-nightmare-1971022>

¹⁹ Lesego M., 1 February 2018, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/the-worst-experience-ever-2437857>

²⁰ Kim, 12 December 2016, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/worst-service-ever-160504731988-2162343>

following day to regain access. By contrast, Yavani C.²¹ a tenant who had been renting at a Mafadi property in Honeydew, said that they had been locked out for almost a week - without a court order or similar - when Mafadi decided to carry out a mass eviction of tenants with outstanding rent. These responses from the online survey and the Hello Peter reviews suggest that most respondents had to make alternative arrangements for at least a night after their eviction until they were able to regain access to their rented accommodation.

Disgruntled tenants explain that landlords are extremely efficient at instituting a lockout if someone is late on payment but are far less responsive on maintenance issues such as a lack of hot water or a lack of security. For example, one woman, using the username Andiswa Q²², said that they had approached the building manager to request a short extension as they had not been paid in full by their employer. No extension was granted and they, along with their child were locked out of the apartment for several days. “I don't know where will I go tonight”, they stated in her review. Another complainant, Mhawukeli H.²³, stated that after more than a year of paying rent on time they were wrong-footed by a change of due date in the rental payment. Their lights were then switched off and they were locked out a few days later. They explained, “I had to live without food and clothes for 15 days, depending on borrowing clothes to attend interviews”.

6.3.3 Notification of impending eviction

Of particular concern was the fact that most of the reported lock-outs or evictions were conducted without the adequate notice period. Only one of the online survey respondents stated that they had received a text message notifying them of their eviction prior to the eviction having taken place. This trend is also apparent among the Hello Peter reviews. Of the 53 reported cases of evictions on Hello Peter, only 7 reported having received eviction notices, four were from AFHCO and three from Mafadi, although none of them had been delivered by a sheriff or given 14 days prior to the eviction. Yavani C.²⁴ reported that they had received an eviction payment after noticing additional charges to their account. Upon discussing this payment with the building manager, the building manager had agreed to sort it out with the head office, thereby instructing him to make the normal payments. However, after a few months, they received a statement, with the suspicious charge and an additional penalty charge which they were supposed to pay within 7 days to avoid eviction and possible legal fees. Another respondent, Phumzile M²⁵, reported that they had received an eviction letter after AFHCO changed management and old management did not pass on rental to the new management.

6.4 Rights and perceptions on the legality of evictions

An interview with SERI (Interview with Alana Potter, 23 July 2019) suggested that there is not much information available on tenant lock-outs and even fewer, if any, ended up in court. The findings from the online survey and Hello Peter suggest that, while a majority of these lock-outs go unreported as

²¹ Yavani C., 19 November 2016, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/unlawful-and-incompetent-staff-management-2143670>

²² Andiswa Q, 6 May 2019, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/so-disappointed-by-afcho-treatment-2733929>

²³ Mhawukeli H., 13 December 2018, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/very-bad-service-2641739>

²⁴ Yavani C., 19 November 2016, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/unlawful-and-incompetent-staff-management-2143670>

²⁵ Phumzile M., 14 June 2017, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/bad-managment-1-2289079>

tenants are unaware of their rights, some are well aware of their rights when it comes to evictions. For example, Nsizwa, a reviewer on Hello Peter, had this to say on their lockout experience while staying at a building managed by AFHCO:

“After paying my admin fee/rent in Dec I moved into the smaller unit Atkinson 736 because the 1 I was shown and paid for, was knowingly occupied. Found out when moving in. Had to then wait till Jan. This involved me having to pay rent at another place & more truck rental. Now moved in, I continue to experience difficulties, from no gate access & getting my bill late or not all. No consultant can claim to be calling me, ever!. I constantly take days off from work to sort issues out only to find I was still not the legal occupant of the new unit. Having thought to have sorted it out, issues still continued. June, locked out of my unit due to non payment only after 2 texts sent to me. Going to the offices I manage to pay 80% with agreement to pay the difference after an investigation on the agent who's to account for my admin fee which accumulated with penalty fees. Of course that update on my difference owed still has not been communicated. I pay my rent in July still without a statement. Locked out I go to Afhco to discuss my arrears. I advised according to PIE Act of 1999 you cannot change the locks. It's illegal. Consultants ignored me. Keep your unit. I just want my property.” (sic) [Nsizwa²⁶, 9 July 2015, Hello Peter]

Another complainant by the name of Bongane C, complaining about Mafadi said:

“Quick question, is it legal for a building management to keep your belongings when you fail to pay rent? People are different and have different circumstances, regardless of the amount they may owe, it is illegal to keep a person's belongings, a person's belongings may entail medication or certain things they may not be able to survive without. In an occasion where a person is critically ill and his medication are locked in some store due to failure of payment and subsequently they pass on, who is responsible for their death? their financial difficulty? Is it illegal to evict a tenant without any written notice or court order that entails attorneys? With all that said, do you thing the procedures done at RDM²⁷ are legal? Where does this leave the Mafadi dignity as it has been established that this has been going on some time and the tenants are not aware.” (sic) [Bongane C²⁸, 21 August 2017, Hello Peter]

Some of the Hello Peter reviews suggested that complainants were keen to take legal action against their illegal lock-outs or evictions. Hello Peter complainant, Vilencia C.²⁹, indicated that they had tried to take some legal action against Mafadi, but was still waiting on the Tribunal Court for further instructions or help. While Thabang R³⁰, who had been locked out and was homeless and ‘crashing’ on a friend’s couch was considering going to Checkpoint as they could not afford legal advice or representation.

Similarly, none of the online survey respondents believed that their eviction was fair with one of the respondents stating that:

²⁶ Nsizwa, 9 July 2015, Hello Peter <https://www.hellopeter.com/afhco-property-management/reviews/worst-service-proudly-apply-illegal-methods-of-operation-1770313>

²⁷ RDM or Rand Daily Mail is a Mafadi-owned building near Maboneng Precinct.

²⁸ Bongane C, 21 August 2017, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/incompetency-2331666>

²⁹ Vilencia C., 4 August 2017, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/mafadi-management-letting-sales-are-they-above-the-law-2322688>

³⁰ Thabang R., 17 January 2018, Hello Peter <https://www.hellopeter.com/mafadi-property-management/reviews/refusal-to-pay-deposit-terrible-service-2427758>

“this was extremely unfair as I am a foreigner and didn't have any relatives whose houses I could go to, they left me stranded and all they cared about was their money” (Respondent 6, 2019).

However, while they realised that the eviction was unfair, only four of the respondents believed that their eviction had been unlawful. Two of them believed that the eviction was legal whilst four of them stated that they didn't know whether the eviction had been lawful or unlawful. This demonstrates the ambiguous level of knowledge that tenants have regarding their rights.

6.5 Summary of results

1.What are the tenure arrangements in the student accommodation market?	<ul style="list-style-type: none"> ● Almost exclusively rental. ● Rental agreements are mostly signed by individuals, however, parents/guardians may also sign the rental agreement on individuals' behalf. ● Mostly managed by companies such as South Point, Dunwell Properties, Mafadi, Campus Africa, Student Digz, Silverbridge, etc.
2.What are the main flows of revenue for the student rental market?	<ul style="list-style-type: none"> ● NSFAS pays rent directly to the landlord ● Parents/self-funded ● Bursaries/scholarship ● Student loans
3.How much is rent in the student rental market?	<ul style="list-style-type: none"> ● Mostly between R3,000 and R4,500 per month. Some charge below R3,000. Others charge between R4,500 and R5,000 per month. Minority charge over R5,000 per month. ● Note: This is rental per individual per month. The more people there are sharing a room, the cheaper the rent.
4. What does the practice of locking out consist of?	<ul style="list-style-type: none"> ● Disabling fingerprint-enabled access. ● Disabling tag or card enabled access. ● Security guard preventing entry. ● Locks changed on door or padlock added. ● Turning off of water and lights
5. What are the consequences of locking out for residents who are locked out?	<ul style="list-style-type: none"> ● Not knowing where they will stay. (E.g. A complainant on Hello Peter said they had slept outside, another said they had slept on the stairs of the building and another was sleeping on a friend's couch). ● Not being able to access their own possessions (food, clothing and university study material). ● Not being able to access their chronic medication (One complainant on Hello Peter noted that their family had been evicted and they could not access a child dependent's ARV treatment). ● No access to identifying documentation (e.g. ID), which meant the individual could not book accommodation for the night. ● “this was extremely unfair as i am a foreigner and didn't have any relatives whose houses i could go to, they left me stranded and all they cared about was their money” (Respondent 6)

<p>6. What are the main reasons for lock-outs?</p>	<ul style="list-style-type: none"> ● Non-payment of monthly rental by individuals and/or roommate ● Non-timeous reflection of rental payment. “The reason why I have not yet gained access is because my bursary have not send me the accommodation money for the second semester and they do not want to send me a letter of arrangement of payment since the people from Campus Africa once threatened to sue my bursary.” (Respondent 3) ● Biometric system malfunction (E.g. Some tenants on Hello Peter reported that they would not be able to gain access if security or building management did not know them. In some cases access was granted in exchange of a favour) ● Note: Some individuals from the Hello Peter reviews noted that they were locked out for the non-payment of additional payments (not initially in the contract) added to their invoices. ● Other reasons: <ul style="list-style-type: none"> ○ Faulty door lock (A complainant on Hello Peter was reportedly locked out when their door jammed. The security company had to break down the door.) ○ Maintenance related issues (Some complainants on Hello Peter could not access their accommodation due to flooding or a fault in the electricity in the unit, which was not resolved timeously).
<p>7. How are tenants notified of impending lockout/ eviction?</p>	<ul style="list-style-type: none"> ● Via SMS ● Via letter ● No notification ● With some other respondents on Hello Peter reporting that they were notified by a note after the fact.
<p>8. When were people able to regain access after the lockout?</p>	<ul style="list-style-type: none"> ● Most people were able to regain access between 2 and 7 days after being locked out ● Some regain access on the same day as or on the day following the lock out ● A minority do not regain access at all ● Access can also be regained through favours to security or building management
<p>9. Do tenants know whether the lock-outs are legal/illegal or fair/unfair?</p>	<ul style="list-style-type: none"> ● There are mixed feelings on the legality of evictions. Some respondents on the online survey and Hello Peter platform think that the lock-outs are legal whilst others think that the lock-outs are illegal. ● Some respondents on the Hello Peter platform appeared to know some eviction legislation. ● Some respondents on the Hello Peter platform also expressed their interest in seeking a legal route. ● All agreed that the lockout was unfair.
<p>10. How did the tenants feel about the lock-outs?</p>	<ul style="list-style-type: none"> ● “Matter should have been handled between bursar and south point” (Respondent 4) ● “This system of keeping (sic) tenants who pay and signed a lease out of the building for late rent must fall.” (Respondent 13)

7 Conclusion

Over the last two decades, there has been an increased focus on the re-development of mid-to-high-rise rental properties within inner city Johannesburg, which has brought with it new patterns of development and displacement. Access control has played a key role in this story of re-incorporation within the formal property market. Offering the promise of protection for residents and landlords, access control is now relatively normalised and, to a large extent, expected by residents. This includes the student accommodation which formed the basis of our study.

These technologies, however, can occupy a contradictory place in the lives of residents who might find themselves dispossessed of their homes and possessions, sometimes without any warning. Ostensibly, such lock-outs happen when tenants are late with rent. In practice, this was not always the case. Sometimes tenants had paid, or were in a dispute over the rent owed. In some ways, however, the reasons behind such lock-outs were besides the point: Access control is enabling landlords to exercise illegal powers over their tenants of exclusion and eviction.

The immediate consequences for tenants were significant. They could discover that they could access their homes or possessions, in some cases, late at night. Although some regained access within hours, others had to make alternative arrangements for a number of days, such as staying at a hotel or with a friend until the issues were resolved. Some felt stranded as they did not have social relationships to draw upon to make alternative arrangements. The majority of the respondents and online review writers had received no notification in advance of the lockout, meaning that alternative arrangements had to be found only once a tenant had been dispossessed of their shelter and belongings.

Illegal forms of exclusion and eviction by landlords are nothing new but we would argue that access control has increased the ease with which they can leverage such powers. These automated and outsourced forms of control mean that landlords have no need or incentive to communicate with residents ahead of a lock out. Particularly in the current climate where legal accountability for such actions seems to be lacking. Whereas the legal framework of post-apartheid South Africa should mean that it is the landlord who has to demonstrate a reasonable case for eviction to the courts, in practice it is residents who are often left with the burden of renegotiating access in the wake of a lockout.

Our report highlights the need for further attention on this issue from academics, policy makers and legal organisations. To date, there has been important work on the mass evictions that precede property development in the city but there has been too little focus on the impact of access control of tenure security in the aftermath of such development. Our study makes the case for such attention as part of a broader effort to build inclusive cities in post-apartheid South Africa.

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9 Appendix - online survey

1. Please provide your age: [number field]
2. Please provide your gender:
 - a. Female
 - b. Male
 - c. other gender identification
3. Have you ever been excluded or prevented from accessing accommodation you were staying in (e.g. evicted, locked out, electronic access deactivated, etc.)? (This excludes fingerprint system glitches and/or maintenance that may have resulted in access prevention)
 - a. Yes
 - b. No [If no, the survey completes and they are thanked]
4. How many times have you been prevented from accessing accommodation that you were staying in?
5. In which year did this most recently occur?
6. Could you provide either the building name or the street address, suburb and city of the accommodation you were staying in at the time? (We are collecting this for the purposes of mapping but you can enter 'Not applicable' if you prefer)
7. Still thinking about the most recent exclusion, what type of building were you staying in?
 - a. Flat/apartment
 - b. House
 - c. Garden cottage
 - d. Informal structure
 - e. University residence
 - f. Other (please specify)
8. What was your tenure status when this exclusion occurred?
 - a. Renting
 - b. Subletting
 - c. Living in accommodation owned by me/my family
 - d. Crashing or squatting
 - e. Other (please specify)
9. [Only if a or b on 9] Did you sign a rental contract, did your parent sign a contract, or did a flatmate or flatmate's parent sign the contract?
 - a. I signed
 - b. My parent/guardian(s) signed
 - c. A flatmate or a flatmate's parent/guardian(s) signed
 - d. There was no contract
 - e. I don't know
 - f. Other (please specify)
10. Who managed your accommodation?
 - a. A company
 - b. An individual landlord
 - c. Body corporate
 - d. A university
 - e. I don't know
 - f. Other (please specify)

11. If a on 11. If possible, please share the name of the managing company with us? (You can enter 'Not applicable' if you prefer)
12. At the time, how were you paying your rent? (Click multiple if more than one applies)
 - a. NSFAS
 - b. Other scholarship/bursary
 - c. Loan
 - d. Family/guardian
 - e. Employed/salary
 - f. Friend
 - g. Didn't pay
 - h. Other: [Open text field]
13. Approximately how much rent were you paying each month?
 - a. Not applicable
 - b. Prefer not to say
 - c. Rands per month
14. Were you a student at the time?
 - a. Yes
 - b. No
15. What was the reason you were prevented from accessing your accommodation?
 - a. I was late on rent
 - b. A flatmate was late on rent
 - c. Fingerprint reader was offline or undergoing system maintenance
 - d. I lost my key
 - e. Other (please specify)
16. What method was used to prevent you from accessing your accommodation (Choose multiple if more than one applies)
 - a. Security guard denied me access to the building
 - b. Lock was changed/padlock was added
 - c. Electronic tag, remote or code no longer worked
 - d. Fingerprint access no longer worked
 - e. Other (please specify)
17. Were you warned in advance?
 - a. Yes
 - b. No
18. If a on 22. How were you warned or informed about your impending prevention of access?
 - a. I received a text message or email
 - b. I received a letter and/or eviction notice
 - c. I was warned in person
 - d. Other (please specify)
19. Do you think that this was fair?
 - a. Yes
 - b. No
20. Do you think that this was lawful?
 - a. Yes
 - b. No
 - c. I don't know

21. Why do you think that this was lawful/unlawful? (You can leave this blank if you don't know)
22. When were you able to regain access to your accommodation?
 - a. On the same day
 - b. The next day
 - c. Between two and seven days later
 - d. More than a week later
 - e. I did not regain access
23. Please feel free to give us any further details on this (You can enter 'Not applicable' if you prefer):
24. We sincerely appreciate your participation in this survey. Would you be willing to participate in a focus group or a follow-up interview to discuss your prevention from accessing your accommodation in greater detail? If you need to get in touch with us, our email address is evictions@gcro.ac.za.
 - a. Yes
 - b. No
25. Please give us a way to contact you (email or cell). We will separate your personal information from the data to anonymise the data.
 - a. Name or alias
 - b. Email address
 - c. Cell phone number