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# IMPLEMENTATION GUIDELINES FOR THE DISPOSAL OF THE SERVICED SITES TO HOUSING SUBSIDY NON-QUALIFIERS IN THE CITY OF JOHANNESBURG

**CITY OF JOHANNESBURG**

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## **1. GUIDELINES PRINCIPLES**

The principle of these guidelines is to guide the process to be followed in the disposal of serviced residential sites located within the informal settlements and green-fields in the City of Johannesburg to beneficiaries who do not meet the national housing subsidy qualification criteria as guided by the Informal Settlements Upgrading Programme and all other human settlement programmes funded through the City's budget.

## **2. SCOPE OF APPLICATION OF THE GUIDELINES**

The scope of application of these guidelines will focus on:

- the informal settlements earmarked for either relocation or in-situ upgrading;
  - the non-qualifiers who live in the occupied land that is earmarked for assistance as part of the Informal Settlements Upgrading Programme;
- the non-qualifiers who are currently residing in the backyards rental accommodation; and
- all other human settlements projects which are funded through the City's budget.

## **3. BACKGROUND**

In most of the informal settlements that are going through the process of upgrading or relocation, there are a significant number of households that do not qualify to access the national housing subsidy. This plight is not only confined to the people in the informal settlements but also affect those who live in the backyards and inner city. The presence of these 'non qualifiers' especially in the informal settlements has had a major impact in the implementation of the housing projects, thus impeding the full realization of the formalization of informal settlements programme in the City.

Although new housing projects have been initiated to provide the housing opportunities to people in informal settlements, to date it has not been possible to completely eradicate the settlements because of households who do not qualify for the housing subsidy. As a result of these non-qualifying households, the Department had to resort to the so called ‘pop-corn<sup>1</sup>’ relocations as witnessed in settlements such as Dlamini Camp and Zevenfontein where some households were left behind due to number of reasons including non-qualification. It can be reported that the Dlamini Camp settlement has finally been cleared but most informal settlements earmarked for in-situ upgrading or relocation remain with ‘non qualifiers’. This poses a challenge, over time if not adequately managed as these settlements begin to experience in-ward growth.

Apart from the challenges of non-qualifiers in the informal settlements, the City is equally facing challenges of non-qualifiers in the backyard and inner city, as they constitute the housing backlog. It is for this reason that such purchasing opportunity should also be opened to them.

The Mayoral Committee meeting held on the 14<sup>th</sup> of April 2011 approved the report on ‘**DISPOSAL OF LAND IN THE UPGRADING OF INFORMAL SETTLEMENTS**’. In this meeting, it was resolved *that* “....

1. *In terms of Section 14(2) of the Municipal Finance Management Act 56 of 2003, the erven depicted hereto are*
  - (a) *not required to provide the minimum level of basic municipal services;*
  - (b) *the fair market value, the economic and community value to be received in exchange of the assets to be considered*

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<sup>1</sup> ‘Pop-corn approach’: The clearing of the informal settlement by only relocating beneficiaries who qualify for the housing subsidy system & leaving behind those who do not qualify.

2 ...., the City of Johannesburg be allowed to alienate developed sites in terms of SCM policy for land...”

Underpinning the above mentioned report was the ‘Upgrading of informal Settlements Programme as documented in the Housing Code 2009. The critical policy intent of the Programme is the suspension of the standard housing qualification criteria applicable to housing programmes in the informal settlements targeted for in-situ upgrading or relocation.

In terms of the Programme, the following households and individuals qualify for assistance:

- Persons that do not satisfy the Housing Subsidy Scheme qualification criteria;
- Households/persons with a monthly income exceeding the maximum income limit as approved by the Minister from time to time;
- Households headed by minors, who are not competent to contract in collaboration with the Department of Social Development;
- Persons without dependents;
- Persons who are not first-time home owners; and
- Persons who have previously received housing assistance and who previously owned and/or currently own a residential property. Assistance may be considered on condition that access to benefits of the programme will be considered on a case by case basis to determine the facts and the approved of access.

Currently the City is utilizing its own funding including the allocated Urban Settlement Development Grant (USDG) for the installation of bulk and internal services. Such

funding which is used for the services can be recouped through the selling of serviced sites to the non-qualifiers in the backyard and inner city.

#### **4. LEGISLATIVE FRAMEWORK**

These implementation guidelines are guided by the following legislation and policies:

##### **4.1 Municipal Finance Management Act, No 56 of 2003;**

In terms of Section 14 (1) and 14(2) of the aforementioned Act, respectively stipulates that

14 (1) *“A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services*

14 (2) *“A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection 1(a) but only after the municipality in a meeting open to the public-*

*(c) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*

*(d) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.*

##### **4.2 Local Government Ordinance 17 of 1939**

The council may in terms of section 79 (18) (a) (1), *“let, sell or exchange or in any other manner alienate or dispose of any movable or immovable property of the council”*

#### **4.3 Upgrading of Informal Settlement Programme, Housing Code of 2009**

In terms of this programme, the standard housing qualification criteria is waived to make way for the non-qualifiers except for illegal immigrants who must be reported to the Department of Home Affairs for further auctioning;

#### **4.4 City of Johannesburg Land Disposal Policy 2009;**

This policy provides a framework of disposing city's assets in a transparent manner as guided by the procurement regime governing the municipalities. The process is restricted to people residing in the settlement.

#### **4.5 City of Johannesburg Policy on Non-Qualifiers**

Approved by the City in October 2006, the policy makes provision for the Child headed families and the vulnerable.

### **5. WHO BENEFITS IN THE PROCESS OF DISPOSAL OF SERVICED SITES IN THE CITY OF JOHANNESBURG**

The qualifying criteria for beneficiaries who will be allowed to purchase serviced sites located in the informal settlements earmarked for in-situ upgrading or relocation and in the backyard and inner city as well as for all human settlement programmes developed using City's funds, shall be based on the following categories of households/persons:

#### **5.1 Monthly Household Income exceeding R3500 as approved by the Minister from time to time;**

- **Options to beneficiaries earning between R3 501 to R10 000**

In the event the beneficiaries income falls in this category, officials of the City should avail the sites at the development cost to the beneficiaries. They

should also be advised of other tenure options including rental accommodation provided by the City.

- **Options to beneficiaries earning between R10 001 to R15 000**

In the event of the beneficiaries income being in this category, officials of the City should avail the sites at market related price. They should also advise the beneficiaries about other tenure options including rental accommodation and gap housing.

## **5.2 Households headed by minors, who are not competent to contract**

Officials of the City are urged to make use of the provision of the Child Headed policy of the City in consultation with the Department of Community Development.

## **5.3 Persons without dependents;**

Depending on the income level as anticipated above, officials of the City should make the sites avail at either development cost or market related price. Beneficiaries should also be advised about other tenure options.

## **5.4 Persons who are not first-time home owners;**

Depending on the income level as anticipated above, officials of the City should make the sites available at either development cost or fair market value. Beneficiaries should also be advised about other tenure options.

## **5.5 Persons who have previously received housing assistance and who previously owned and/or currently own a residential property.**

Depending on the income level as anticipated above, officials of the City should make the sites available at either developmental cost or fair market value. Beneficiaries should also be advised about other tenure options.

## **6. Illegal immigrants**

Illegal immigrants found to be residing within the informal settlement upgrading projects will not qualify to acquire the stands located within the informal settlement upgrading projects. In case illegal immigrants are identified, the City of Johannesburg will report the matter to the Department of Home Affairs to investigate the matter further. In a case of in-situ upgrading, the sites left by illegal immigrants are to be reallocated to the deserving beneficiaries.

## **7. DETERMINATION OF THE DISPOSAL PRICE**

### **7.1 DEVELOPMENT COST**

The purchase price of the stands to be sold to non-qualifying beneficiaries will be equal to the cost of the development of the stand, comprising of:

- Land acquisition component in relation to each stand;
- Component equal to the cost of the provision of the municipal engineering services in relation to each stand;
- Component equal to the cost of the provision of bulk link services with respect to each stand;
- Cost for the provision of electricity to the unit;
- Cost for the provision of internal water and sanitation;
- Transfer costs; and
- Additional geotechnical

## 7.2 THE FAIR MARKET VALUE OF LAND

The City shall determine the fair market value of the serviced sites in terms of its normal processes including the undertaking of the land valuation exercise. This cost will take into cognisance the development cost as the minimum cost of the market price.

## 8. STEPS<sup>2</sup> OF DISPOSAL OF THE SERVICED SITES TO DESERVING BENEFICIARIES

### STEP 1: Beneficiary Audit

At the feasibility stage of the project, among other parallel processes will be to quantify the number of beneficiaries who will benefit from the project. This quantification should inform about the number of beneficiaries who qualify and those who do not qualify for subsidies.

Depending on the project yield, prepare a report to Council for the approval of the beneficiary community, advised it of the presence of non-qualifiers. Ward Committees and community development workers should be utilized to access non-qualifiers in the backyard and inner city.

### STEP 2: Development of Land

Notwithstanding other steps in the project management cycle of the project, begin the process of servicing the land with bulk and internal services. Once completed, with the assistance of the Allocations Committee, designate sites for the non-qualifiers.

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<sup>2</sup> The steps below are not necessarily in sequence but can be administered in parallel and tandem to each other

8 "Guidelines for the Disposal of Serviced Sites to non-qualifiers"

### **STEP 3: Administration of applications to purchase Serviced Sites**

The Allocations Committee shall be responsible for the administration of the applications for the purchase of the serviced sites. They will among other things develop criteria for the disposal of the sites. They will require the certified copies of the following documents, where applicable should be submitted by the beneficiaries who wish to purchase the serviced sites earmarked for the non-qualifiers in the identified Informal Settlements earmarked for upgrading, be either in-situ or relocations.

- Proof of allocation to the stand to be purchased;
- Proof of registration in the Housing Demand Data Base;
- The page of the barcoded R.S.A. identity document containing photograph of applicant and that of his/her spouse;
- The page of the barcoded Permanent Residence Permit containing the photograph of the applicant and that of his/her spouse;
- A marriage certificate (if applicable);
- A spouse's death certificate (if applicable);
- A divorce settlement (if applicable);
- Birth certificates of all dependents (if applicable);
- Most recent pay slip [applicant and spouse];
- Most recent three months bank statement for both the applicant and spouse;
- Proof of Disability (where applicable); and
- Any other documents that may be required by the Council to assess the application.

#### **STEP 4: Consumer Education**

Conduct consumer education on all the products and options the non-qualifiers have if they do not qualify for state subsidised housing. This should include the following:

Different housing options and products include the social housing, credit linked subsidy and any form of rental accommodation including backyard rental.

- sources of funding to purchase site as well as house construction;
- rights and responsibilities as owners of developed sites including payment of rates and services;
- where to pay, how much to be paid and what are they paying for; and.
- Conveyancing.

#### **STEP 5: Entering into Deed of Sale Agreement with the prospective beneficiary**

Once the prospective beneficiary has satisfied the standards of the City, a formal Deed of Sale agreement must be entered into between the Department and the prospective buyer.

#### **Step 6: Payment for the Serviced Land**

The payment for the purchasing of the serviced sites will be done in two (2) folds, namely, cash payment and installment sale.

- **Cash Payment**

The beneficiary will have an option of cash payment of the entire cost of the serviced site. Upon receipt of the full payment of the site, an agreement of sale will be entered into between the beneficiary and the Department. The transaction

of deeds registration will then ensue as governed by the City's transfer of properties processes.

- **By Installment Sale**

Should the beneficiary elect to use the installment sale option, a ten (10%) percent deposit of the cost of the service site will be required and thereafter the balance of the cost will be split for the duration of payment. The Agreement of Sale should be signed upon receipt of the deposit. The duration of payment shall be sixty (60) months. The City remains the legal owner of the serviced site and shall exercise this right until the completion of the installment. The Agreement of Sale should however make provision for the payment of rates and taxes in favour of the buyer.

In the event that the beneficiary pays the installment sale in full in the first thirty (36) months, all the interest charges will be waived. However these charges become effective from the thirty seventh (37<sup>th</sup>) month of the installment period.

The beneficiaries who will not honour the sale agreement will be dealt with in line with the approved credit control measures of the City.

The interest rate payable will be at prime rate of the day. Officials of the City are urged to observe the legislation and any other relevant policies of the City in the administration of these transactions.

Officials of the City should advise the beneficiaries about the funding options available to their disposal that include approaching financial institutions for mortgage bonds.

The property transfer processes of the City will then take preeminence during the installment sale period.

Department of Housing in the City shall prepare a report to Council for the opening a separate account that will be ring fenced for such activities. Monies in this account will be used for further housing developments. The accounting officer for the account shall be the Executive Director of Housing or his or her nominee.

#### **STEP 7: Allocation of Serviced Sites**

Upon cash payment or ten percent (10%) deposit payment, the Allocations Committee will allocate the vacant serviced site to the deserving beneficiary. If the beneficiary pays in cash, the City will instruct the Conveyancers to process the transfer documents. A disposal of land report should be prepared for Council approval in compliance with the relevant legislation.

In case of installment sale, the Council will only issue receipts of payment. This transaction will be governed by the Sales and Transfer processes as approved and applied by the Department.

The beneficiaries are expected to build a top structure within a period of twenty (24) months from the first date of occupation. The officials are expected to ensure that the building plans of the top structure to be built have been duly approved by Building Control.

#### **STEP 8: Transfer of Property to the Beneficiary**

The Department shall facilitate the transfer of the property to the owner by instructing its Conveyancers to proceed with the registration of the title deed in favour of the beneficiary. The transfer of property to the deserving beneficiary will be done in terms of the Transfer of Properties processes of the City.

Diagram of the steps discussed above is attached as Diagram 1:1

## **9. INSTITUTIONAL ARRANGEMENTS**

### **ROLE OF STAKEHOLDERS**

In this section we look at the role of different role players in the programme. The role of the MEC responsible for housing shall be discussed extensively under the role of the Provincial Housing Department. We will also look briefly on the role of the Municipality and the beneficiary.

#### **9.1 Provincial Department of Local Government & Housing**

The role of the MEC and or of the Provincial Local Government and Housing Department can be summarised as follows:

- The MEC of the PHD apportion funds for housing development from the annual Conditional Grant allocation from the Minister of Housing and should request municipalities to apply for such funds for Integrated Residential Development Programme.
- The MEC should review municipal applications for reservation of Conditional Grants.
- The MEC may accept or reject the application of the municipality.
- On receipt the application of the beneficiary, the PHD should acknowledge receipt in writing within seven da days of receiving the application.
- Verify the legitimacy of the application.

- Ascertain by means of deeds search of all deeds offices, whether any property is or was registered in the name of the applicant or that of his/her spouse.

## **9.2 Municipality**

- The role of the municipality is summarised as follows:
- The Municipality shall make an application to the MEC responsible for Housing for housing Conditional Grant to implement the Integrated Residential Development Programme.
- The municipality council approves applications to purchase the residential stands and they must provide all the required details of such approved application to the PHD.
- The Municipality may apply for the subsidies on behalf of the beneficiaries to the Provincial Housing Department.
- The Municipality can be a developer of choice.
- As a developer of choice, the municipality can purchase the land from the private land owner or use the public land and install services and infrastructure.
- The Municipality may sell the serviced stands to all beneficiaries and Non-Qualifiers especially those who earn beyond the MINMEC threshold.

## **9.3 Beneficiary**

The role of the beneficiary can be summarised as follows:

- To make an application for housing subsidy.

- To be informed by the Municipality and the Provincial Housing Department of the status of her application.

#### **9.4 Central Allocations Unit**

This Unit is entrusted with the role of allocating the serviced sites to the deserving beneficiaries. It is the duty of Central Allocations Unit to ensure seamless systems for the administration of these processes.

### **10. Monitoring and Evaluation**

For effective monitoring the implementation and adherence to these guidelines the Allocations Unit with the assistance of Regional Heads or their designated persons to ensure the following process is followed:

- The Allocations Unit has developed a Monitoring and Reporting mechanisms of all informal settlements and those earmarked for upgrading.
- Keep a register of all land facilities with the help of Johannesburg Property Company;
- Ensures that everybody adheres to inter alia the Policy on non-qualifiers, Local Government Ordinances, National Programme of Informal Settlement Upgrading and Municipal Finance Management Act, 56 of 2003 (MFMA), Consumer Protection Act, Deeds Registry Act, and regulations and guidelines incidental thereto;
- Liaise with Regional Heads in managing the allocations of deserving beneficiaries; and

- Submit quarterly reports bearing the signature of the Regional Head must be prepared and submitted to the Central Allocations Unit regarding the serviced sites/stand and the identified beneficiaries.

**DIAGRAM 1:1 STEPS OF DISPOSAL OF THE SERVICED SITES TO DESERVING BENEFICIARIES**

