

POLICY ON ADDRESSING NON-QUALIFIERS IN THE HOUSING PROGRAMME IMPLEMENTED BY THE CITY OF JOHANNESBURG

1. INTRODUCTION

According to section 1 of the Housing Act, No. 107 of 1997 the primary housing objective of government is "the establishment and maintenance of habitable, stable and sustainable public and private residential environments to ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities in which all citizens and permanent residents of the Republic will on a progressive basis, have access to:

permanent residential structures with secure tenure, ensuring internal and external privacy, and providing adequate protection against the elements, and potable water, adequate sanitary facilities and domestic energy supply."

In order to realise this objective a number of national housing programmes have been developed and implemented. Central to these programmes has been the National Housing Subsidy Scheme that provides subsidies to enable households to gain access to housing opportunities. The general rules to administer the scheme have included the value of the subsidy, how the subsidy is to be used and significantly for this policy, the eligibility criteria.

Government recognised that for most households in the country the ability to contribute to the cost of housing is severely limited. The intention with the introduction of subsidies thus was to introduce a system that focuses on the poor and on family housing.

According to the National Housing Code, March 2000, the following six main criteria must be fulfilled in order for a person to be eligible for a subsidy:

- Married or financial dependents: he or she is married (in terms of civil law or customary union) or habitually cohabits with another person, or he or she has proven dependents
- Resident: a lawful resident of South Africa – citizen or posses a permanent resident permit
- Competent to contract
- Monthly household income: gross monthly income does not exceed R3 500 per month
- Not yet benefited from government funding
- First time property owner

2. PROBLEM STATEMENT

Over the past years, using these criteria government has successfully been able to provide more than 1,6 million housing opportunities. However despite these delivery figures housing demand and the backlog has continued to grow. In addition the rate of housing delivery has also been affected. There are a number of reasons for this decrease in delivery. The issue of non-qualifiers on projects although not seen as directly affecting the rate of delivery has provided significant challenges on a number of projects.

Anecdotal evidence on projects such as Kaalfontein and other housing projects identified within the Diepsloot area, in the City of Johannesburg indicate that as much as 40 percent of households living in the project area can be considered non-qualifiers. In some instances these households are actually settled on land that has already been serviced. If no solution to the issue of non-qualifiers is identified the continuation of these projects will be significantly compromised.

On many projects households identified as non-qualifiers are very much part of the social fabric and established social networks of such communities. The individualisation of the housing subsidy however, leads to this differentiation between qualifiers and non-qualifiers, and subsequently the exclusion of non-qualifiers from subsidy support. This situation thus can generate high levels of social conflict and often leads to unnecessary displacement.

Allocating housing opportunities just on the eligibility criteria for accessing housing subsidies has led in some instances to the reengineering of household formations. Households have come together merely to access the subsidy, and once this has been accomplished there is generally a breakdown of the household – leaving people homeless and without access to another housing opportunity from government, for an example, an illegal immigrant marrying a South African with the sole intention to access a number of government resources including housing opportunities and divorce after obtaining the benefits.

In addition it has also been acknowledged by housing policy makers and practitioners that the eligibility criteria has to some extent created human settlements that have a concentration of poor people – islands of poverty. Internationally these communities reflect a range of social and economic problems. Thus the lessons and challenges from this experience would be to start to ensure that human settlements in the City are more integrated, not just in terms of physical integration, but also along social, economic and racial lines.

Section 26 of the Constitution enshrines the rights to housing and reflects that:

- (1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

Interpreting these clauses within the constitution thus suggests that people defined as non-qualifiers under the housing subsidy scheme also have a right to access housing. The qualification in terms of clause (2) "within its available resources" and "progressive realisation of this right" however does allow for the state to implement eligibility criteria in the administration of the housing subsidy scheme, where the state provides financial assistance to acquire housing.

Thus in addressing the issue of non-qualifiers it is important to understand their rights to housing generally, although they may not necessarily receive financial assistance from the state, in the form of a subsidy.

Given the role of the state in facilitating households access to housing as well as some of the impediments that non-qualifiers present to the development of housing projects the housing needs of non-qualifiers are currently in the process of being addressed within national housing policy. To date mechanisms for accommodating non-qualifiers have been included in both the Housing Assistance in Emergency Circumstances programme as well as in the Upgrading of Informal Settlements programme.

The policy proposals to address the issue of non-qualifiers outlined in the next section includes, the mechanisms reflected in the aforementioned programmes.

3. POLICY INTENT

3.1 OBJECTIVES OF THE POLICY

The main objective of the policy is to identify the types of non-qualifiers on housing projects and to propose possible housing or tenure options so as to be able to address their housing needs.

In addition this policy aims at ensuring that housing projects are not negatively impacted upon, (eg. delayed or stopped), by the issue of non-qualifiers residing within project areas.

In order to continue with housing development, to date the only possible intervention has been the eviction of non-qualifiers. This intervention however has significant social, political and financial implications. Further as a result of community resistance and the reoccupation of land this intervention has not been very successful. This policy thus seeks to propose alternative interventions to that of eviction.

The policy also aims at maintaining as far as legally possible the current social and economic networks that currently exist within the housing development areas.

3.2 PRINCIPLES

In formulating the policy on non-qualifiers it is important that the following principles are heeded:

- That the current integrity of the housing subsidy programme remains so as to ensure that the very poor, households with an income of less than R3500 per month are the main beneficiaries of government's subsidy programme;
- That there is fair, transparent and uniform mechanisms or interventions to address non-qualifiers across housing projects;
- That the interventions proposed are not affected by legal restrictions such as in the case of illegal immigrants;
- That the policy does not undermine the current City of Johannesburg, Housing Allocation Policy, approved by the Mayoral Committee on the 14th March 2002

3.3 SCOPE OF THE POLICY

This policy applies:

- to projects within the housing subsidy programme, both greenfields (in terms of relocation), and informal settlement upgrading; Hostels redevelopment, Emergency Housing and where applicable
- to the issue of non-qualifiers in Old Age Homes and Council rental stock (flats and houses) referring to those who already benefited from the National Housing subsidy scheme.

4. APPLICATION OF THE POLICY

4.1 DEFINING NON-QUALIFIERS

Given the six main criteria for accessing the housing subsidy as articulated in the National Housing Code, non-qualifiers of the housing programme would be people or households who do not comply with any one of those criteria. Currently on housing projects within the City the following categories of people have been identified as non-qualifiers:

- single persons *without dependants*
- children/ minors
- people who currently own property (immovable)
- people who have received housing assistance previously
- households with incomes exceeding R3500 per month
- legal non-SA citizens
- illegal immigrants

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However in the instance of Old Age Homes and Council rental stock (flats and houses) the identification of non-qualifiers relates to the allocations policy for these specific types of accommodation.

Currently within the allocations process for Old Age Homes disabled persons, that are under sixty years and that have children living with them do not qualify for accommodation within Old Age Homes or senior citizen villages owned by the City. In addition although applications for accommodation in Old Age Homes are accepted from individuals 55 years and upwards, accommodation is only available for people that are 60 years and older.

Therefore in the allocation process for Old Age Homes the non-qualifiers presently can be categorised as:

- disabled persons under 60 years, with children living with them
- people between the age of 55 years and 60 years.

These categories of people are currently not catered for in the allocation process but are continuously requiring assistance from the City of Johannesburg, Housing Department.

In addressing this issue the non-qualifiers policy will either reinforce the allocations policy or identify possible alternative interventions

4.2 POLICY PROPOSALS

The housing subsidy scheme is currently applicable only in households where the beneficiaries are either married or cohabiting or where there is a single adult but with financial dependents. A growing number of households in informal settlements comprise single persons. Generally these households tend to be more mobile since their housing needs are linked to economic opportunities. Given this mobility the provision of rental accommodation could be one of the options that could successfully address such households housing needs.

According to the law, minors and children are not able to legally contract. Minors younger than 7 years have no contractual capacity per se, whereas minors between the ages of 7 years and 21 years are deemed to have limited contractual capacity. This prevents them from being able to complete subsidy applications etc directly. The legal systems does provide for minors interests to be protected through a guardian or a trust. Thus using the mechanism of a guardian or a trust minors rights to receiving a subsidy and acquiring property can be protected.

The housing subsidy scheme rules are very clear on the fact that people that own property or who have previously received housing assistance from the state will subsequently not receive a housing subsidy. Implementation of this rule is to ensure that there is equity in the housing programme and to prevent people benefiting twice whilst a number of households have still not been able to access housing opportunities from the state. These categories of non-qualifiers however continue to

live in informal settlements for different reasons, especially in relation to their economic opportunities. If they continue to reside in informal settlements it thus becomes imperative that alternatives are provided for them.

To date housing opportunities for people that earn over R3500 and below R7000 per month have been fairly limited. They fall outside the subsidy programme and have not been very successful in terms of accessing housing finance from financial institutions even if they are able to demonstrate their ability pay for their housing. Although as part of the 'Breaking New Ground' National government has articulated the intention to provide these households with deposits necessary for securing a loan from financial institutions the details of such a programme still needs to be finalised. Given that this category of non-qualifiers has a steady income it is therefore proposed that they should be offered rental accommodation or the option of acquiring a site within the project at development cost.

Non South African citizens that are legally staying in the country are allowed to rent accommodation as well as acquire property. This is increasingly the trend in the more wealthy communities. Thus legal non South African citizens currently living in informal settlements should be afforded similar opportunities. Thus the options of rental accommodation as well the possibility of acquiring property at the development cost rate is proposed.

These opportunities however should not be made available to non South Africans that have not legally entered the country.

Within the City of Johannesburg the following housing interventions are currently being implemented. Proposals as to how these programmes can accommodate non-qualifiers are thus articulated.

4.2.1 Formalisation

The formalisation process comprises the establishment of a township as well as the provision of security of tenure. Tenure security is achieved through the transfer of the property/ land to a qualifying beneficiary. Thus to date non-qualifiers living within the project area have not been accommodated within the formalisation process.

In order to provide housing opportunities for non-qualifiers the proposed response is that the City offers the surveyed site at development cost to non-qualifiers. Non South Africans that do not have the requisite documents however will not be able to acquire a site and will be referred to Home Affairs.

4.2.2 Top structure construction

Top structure construction within the City is undertaken in a number of ways, through the turnkey programme, peoples housing process and green field development projects. In the turnkey programme and green field projects if non-qualifiers currently reside within informal settlements that are being relocated to these projects they should be able to be accommodated provided that they pay the development costs for an individual site, including the top structure costs.

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In this instance as well, non South Africans that do not have the requisite documents will not be able to acquire a site and will be referred to Home Affairs.

4.2.3 Emergency Housing

Emergency housing refers to housing that is funded through the National Housing programme: Housing Assistance in Emergency Circumstances. According to this programme all households both subsidy qualifiers as well as non-qualifiers can be accommodated.

Thus in applying this programme, the City will have to accommodate all non-qualifiers.

4.2.4 Upgrading of Informal Settlements

The Upgrading of informal settlements is a new national programme with a separate funding mechanism to that which has been used by the City to date to provide housing for residents of informal settlements. This policy recognises the impact of non-qualifiers within informal settlements and proactively caters for their needs. The subsidy eligibility criteria applicable to other housing subsidy programmes falls away in the Upgrading of informal settlements programme.

However like in the other programmes Non South Africans that do not have proper papers are to be referred to the Department of Home Affairs.

4.2.5 Hostels Redevelopment

The Hostel Redevelopment programme makes provision for either the renting out or ownership of units once the hostel has been upgraded or developed. The important criterion for qualification is the ability of the hostel dwellers to pay the monthly rental.

Non- South Africans that do not have permanent residency status or working visas are excluded from the programme. In addition one must not have received housing subsidies elsewhere.

4.3 POLICY RECOMMENDATIONS

4.3.1 National Housing Programmes

This policy thus recommends that the identified categories of non-qualifiers be accommodated within housing projects within the City in the following way:

Non – qualifiers	Proposed intervention
1. children/ minors	Rights should be held by a guardian or in a trust and the interventions of the Child headed households policy must be implemented.
2. single persons	Generally should be allowed to purchase the site at development cost.

	However in the in situ informal settlement upgrading programme no restrictions placed on receiving a site, but will not receive the consolidation subsidy for the top structure. Can access rental programmes provided normal rental is paid
3. people who currently own property	Can purchase site at development cost and can access rental programmes provided normal market related rental is paid
4. people who previously received housing subsidies	Can purchase site identified in line with RSDF's (Regional Spatial Development Framework) at development cost and can access rental programmes provided market related normal rental is paid. However will not be able to be accommodated in the Hostels programme
5. Households with income exceeding R3500 per month	Can purchase site at development cost and can access rental programmes provided normal rental is paid
6. legal non - SA Citizens	Can purchase site at development cost and can access rental programmes provided normal rental is paid
7. illegal immigrants	Should be referred to the Department of Home Affairs

In addition to the above interventions it is recommended that the City should pursue the facilitation of the development and management of rental accommodation both within as well as outside the subsidy programme, at scale. The provision of rental accommodation would greatly assist in addressing the housing needs of non-qualifiers since many of them are not necessarily constrained by affordability but rather by the lack of housing accessibility.

Thus the social housing programme, and backyard or community rental proposal must be developed and promoted by the City so as to provide greater housing options for both housing subsidy qualifiers and non-qualifiers.

4.3.2 Old Age Homes

Non - qualifiers	Proposed intervention
1. disabled persons under 60 years.	In line with allocation policy they should not be accommodated in old age homes but should be referred to the housing subsidy programme that is able to accommodate disabled persons with variations.
2. Disabled persons over 60 with grandchildren.	In line with allocation policy they should not be accommodated in old age homes

	but should be referred to the housing subsidy programme, unless they are special cases with a form of disability or chronic illness.
3. people between the age of 55 years and 60 years	In line with allocation policy they should not be accommodated in old age homes but should be referred to the housing subsidy programme, unless they are special cases with a form of disability or chronic illness.

5. MONITORING AND EVALUATION

Once the policy on non-qualifiers is approved monitoring of the policy implementation will be undertaken by City of Johannesburg, Housing. Together with the implementation of other housing policies this policy will be monitored and evaluated and reports+ submitted to Council on a six monthly basis.