

COJ : HOUSING COMMITTEE 2008-06-10  
COJ : MAYORAL COMMITTEE 2008-05-15

## HOUSING

### 1 REGULARISATION OF UNAUTHORISED OCCUPANTS

#### 1 STRATEGIC THRUST

Housing and Services.

#### 2 OBJECTIVE

The purpose of this report is to request approval for the regularisation of unauthorised occupants in occupation of Council owned stock post 30 September 2002, in terms of the proposed guidelines.

#### 3 BACKGROUND

Auditor General's findings in the books of the Housing Department of the City of Johannesburg have revealed that the Department has for the past years been unable to collect all its revenue (Rental). This Auditor General findings was due to the following:

- (1) Unknown Council owned stock .
- (2) Unknown occupancy rate and
- (3) Non- or lack of Lease Agreements.

#### 4 PROBLEM STATEMENT

In an attempt to address the Auditor General's findings the Department conducted a stock and occupancy audit. The results hereof revealed that around 40%-unauthorised occupants (without Lease Agreements) were in occupation of Council owned rental stock. An audit into the matter confirmed that most of the unauthorised occupants took occupation prior to 30 September 2002.

The Council engaged in a process of regularisation of unauthorised occupants utilising Item 28 of its meeting held on 20 March 2003. A copy of the report is attached for ease of reference.

It is important to note that in terms of Paragraph 10 of the previous Council decision, no regularisation would take place after 30 September 2002. This fact causes unwillingness on the side of officials to continue with the 'unauthorised' regularisation of unlawful occupants simply because it is in contravention of the standing Council resolution.

The previous decision of Council also provided that unauthorised occupants who took occupation of Council owned stock post the cut-off date of 30 September 2002 should be evicted.

The envisaged evictions however were largely not carried out due to lengthy legal and administrative processes associated with eviction and budgetary constraints.

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### 5 PROPOSED SOLUTION

To overcome this problem Council should adopt a similar process currently undertaken by Provincial Housing Department Regularisation and Transfer of Ownership Programme (RETRO) who by coincidence have properties in the same suburbs as the City of Johannesburg. The Provincial Housing Department was faced with the same problem and like Council approved a Regularisation Policy whose cut-off date was set at 31 December 2003.

To overcome possible challenges of evictions that would have surfaced from occupants who took occupation after the cut-off date, the Provincial Housing Department utilises its Regularisation and Transfer of Ownership (RETRO) Programme Section 4 Subsections 4.1 and 4.3 (c) to regularise unauthorised occupants who took occupation ... of their stock beyond their cut-off date being 31 December 2003 (Annexure B).

The problem though with this programme is that it primarily focuses on regularisation for transfer and not rental purposes thus those who opt to rent are not afforded the opportunity.

The section/s read as follows:

#### Section 4

#### REGULARISATION OF UNAUTHORISED OCCUPANTS

##### Sub Section 4.1

*"It is the policy of the department to allow unauthorised occupants of rented properties the opportunity in terms of housing policy, to apply to regularise their occupancy in terms of a fair and transparent set of administrative procedures".*

##### Sub Section 4.3 (c)

*"In the event that the illegal occupant took occupation after the cut-off date of 31/12/2003 (Provincial), but does not own and/ or have sold any property, then the property in question be sold and transferred to him/ her at historical value without the subsidy but in terms of Housing Policy".*

Key in this section is that unauthorised occupants are afforded an opportunity to be regularised and permitted to buy and take transfer at historical value however without subsidy.

It is therefore suggested that Council follows a similar process in that the current tenants/ occupants are regularised to enable Council to effectively collect rentals owed.

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### 6 GUIDELINES FOR REGULARISATION POST 30 SEPTEMBER 2002

The following guidelines are proposed:

- (1) A person who has been deserted by her/ his spouse who is a tenant of record;
- (2) A tenant of record who has applied for an exchange to other premises and subsequently taken occupation thereof, subject to the return of the previous housing unit to the Department;
- (3) Tenants of record that have arranged and concluded unauthorised exchanges of housing units; or
- (4) A person and or household who have obtained occupation by peaceful means such as a sub-lease or a purchase of a purported right of occupation from a tenant of record.

### 7 POLICY IMPLICATIONS

It is expected that institutional arrangements in implementing the revised regularisation guidelines will be in line with all City of Johannesburg Housing policies and/ or guidelines especially guidelines outlined in the RETRO Programme.

### 8 LEGAL IMPLICATIONS

In principle the report is supported as there is an obligation on Council to effect measures which may include the adoption of policies, to address the concerns of the Auditor General but more importantly to collect all monies due and payable to the Council to the best of its ability.

### 9 FINANCIAL IMPLICATIONS

None.

### 10 OTHER BODIES CONSULTED

Gauteng Provincial Housing Department and Housing Regional Heads.

On 15 May 2008 the Executive Mayor, assisted by the Mayoral Committee resolved:

- "1 That the Executive Director : Housing be authorised to continue with the regularization of unauthorised occupants of council owned stock post 30 September 2002.*
- 2 That the following guidelines be accepted for the regularization of unauthorised occupants:*

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- (1) *A person who has been deserted by her/ his spouse who is a tenant of record;*
- (2) *A tenant of record who has applied for an exchange to other premises and subsequently taken occupation thereof, subject to the return of the previous housing unit to the Department;*
- (3) *Tenants of record that have arranged and concluded unauthorised exchanges of housing units; or*
- (4) *A person and or household who have obtained occupation by peaceful means such as a sub-lease or a purchase of a purported right of occupation from a tenant of record."*

**FOR INFORMATION**

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THE NEXT ITEM FOLLOWS THE ANNEXURES TO THIS ITEM

City of Johannesburg Council 2007-08-30

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COJ : MAYORAL COMMITTEE 2007-07-19

## **HOUSING**

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### **34 REVISED HOUSING ALLOCATIONS POLICY FOR THE CITY OF JOHANNESBURG**

#### **1 STRATEGIC THRUST**

Housing and Services.  
Well Governed and Managed City.

#### **2 OBJECTIVE**

To obtain approval for the Revised Housing Allocations Policy for the City of Johannesburg. (See annexure.)

#### **3 BACKGROUND**

Housing allocation is a critical component of the housing delivery process. With the limited funding available for housing developments, and increasing pressures in terms of housing backlogs in the City as a result of new household formations and increasing urbanisation, it can become extremely contentious as to who is able to access housing opportunities, and how these opportunities are accessed.

It is therefore important that policies and procedures are developed and implemented to ensure that a fair, equitable and transparent allocations process is possible. In 2002 the City approved the Housing Allocations Policy. Given changes in national and provincial policy parameters as well as challenges in the implementation of the policy, a Revised Housing Allocations Policy for the City of Johannesburg is being proposed. Thus the policy once approved will replace the Housing Allocations Policy approved in 2002.

#### **4 SUMMARY**

The policy provides a framework for addressing housing allocations on projects where the City of Johannesburg, Housing Department is the developer. The City also enters into agreements with other stakeholders for example the Provincial Department of Housing, to undertake the allocations component on projects where the Province are the developers.

The policy also seeks to provide for the utilisation of systems to address the backlog and demand for housing. This would include utilising the provincial housing demand database to assist in the planning of targeted housing delivery as well as directing households to housing opportunities being implemented by other role players in the City, through the establishment of a housing opportunities data base.

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Utilising the national housing subsidy eligibility criteria, and the priorities and directives from the Gauteng Department of Housing the policy proposes allocation criteria for the following housing programmes in the City:

- Upgrading of informal settlements programme.
- Green fields and integrated housing projects.
- Social and institutional housing.
- Council owned rental stock.
- Accommodation for senior citizens.
- Staff hostels.
- Public hostels.
- Emergency housing accommodation.

In line with provincial policies the City will also implement the Housing Demand Database that is replacing the Provincial housing waiting list. The Housing Demand Database will include families registered in informal settlements, backyard shack occupants, families allocated and living on service stands without top structures, people living in hostels, and the balance of the households that are on the housing waiting list.

It is important that the institutional arrangements are identified to ensure the implementation of this policy. In this regard the policy advocates the establishment of the Central allocations committee as well as a committee on an individual project level to address the issue of allocations. The terms of reference for these committees will be included in the implementation guidelines and will define the role of the committees, as well as their composition.

Once the policy is approved, implementation guidelines will be developed providing more detailed steps to the allocation processes identified.

### 5 POLICY IMPLICATIONS

The Revised Housing Allocations policy is in line with the national housing subsidy criteria and the proposed Housing Allocation and Demand Database policy of the Provincial Department of Housing.

### 6 LEGAL AND CONSTITUTIONAL IMPLICATIONS

The policy is in accordance with the Constitution, and the National Housing Act.

### 7 FINANCIAL IMPLICATIONS

The establishment of the housing demand database will be implemented by the Provincial Department of Housing, however the City may incur costs in terms of the management of the database. The establishment of the Housing opportunities database will have financial implications and it is proposed that engagements will be held with other housing stakeholders to determine the operationalising and management of the database.

### 8 COMMUNICATIONS IMPLICATIONS

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To ensure the successful implementation of the policy, the policy will be extensively communicated to communities, as well as other stakeholders involved in housing delivery in the City.

**9 OTHER BODIES/DEPARTMENTS CONSULTED**

Gauteng Provincial Department of Housing.

**IT IS RECOMMENDED** That Council approve the Revised Housing Allocations Policy for the City of Johannesburg which replaces the Housing Allocations Policy approved in 2002.  
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(EXECUTIVE DIRECTOR)  
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THE NEXT ITEM FOLLOWS THE ANNEXURE TO THIS ITEM