

DEPARTMENT OF LOCAL GOVERNMENT AND NATIONAL HOUSING

DRAFT 11 FOR DISCUSSION : 24TH AUGUST 1993

(Subject to clearance with legal advisors)

AIDE MEMOIRE

TO RECORD UNDERSTANDINGS

ON INTERIM ARRANGEMENTS FOR HOUSING

REACHED BETWEEN

THE DEPARTMENT OF LOCAL GOVERNMENT AND NATIONAL HOUSING

AND

THE NATIONAL HOUSING FORUM

(jointly referred to below as "the parties")

KEY:

Amendments agreed at Ministerial and NHF Negotiation Team Level

~~and~~ = delete

and = insert

1. PREAMBLE

The parties jointly recognise the urgent need for the delivery of housing in South Africa to continue and for the rate and scale of the provision of housing to increase even during the interim period while constitutional developments in South Africa are taking place and a new national housing policy and strategy is being formulated. The parties consider that increased housing delivery, coupled with the requirement that approaches adopted must be broadly supported and capable of being sustained in at least the medium term, is essential in order to secure a higher level of certainty and common purpose regarding the approach to resolving the housing crisis in South Africa.

In order for this to be achieved, the parties jointly recognise:

- (i) that it is necessary to establish and to commit themselves to an overall value framework on housing matters in South Africa;
- (ii) the need to make interim institutional arrangements in order to consider housing projects and programmes for which moneys are available in the National Housing Fund and other similar funds as well as funds to be provided in future budgets for housing (subject to the timing of the restructuring according to the proposals in paragraph 3.1) for as long as the arrangements contemplated in this record of understandings may endure; and
- (iii) the need to establish a basis upon which broad based consensus can be reached upon key housing issues and policies to guide the housing sector in South Africa.

The parties support the overall value framework in paragraph 2 which will guide the proposed National Housing Board referred to in paragraph 3.1.

2. OVERALL VALUE FRAMEWORK

The vision, national housing goal and points of departure set out in 2.1, 2.2 and 2.3 below, serve as the overall value framework within which all interim actions for the delivery of housing will be pursued within the boundaries of the Republic of South Africa during the interim period or until substituted by or amplified in terms of a national housing accord as contemplated in 4 below. The intention is recorded that, subject to constitutional and other constraints, national housing policy and strategy should in future apply to South Africa as

constituted in 1910.

2.1 Vision for Housing in South Africa

South Africa strives for the establishment of viable communities, situated in areas allowing convenient access to economic opportunities and health, educational and social amenities, within which all its people have access at least to -

2.1.1 a permanent residential structure, with secure tenure, ensuring privacy and providing adequate protection against the elements; and

2.1.2 potable water, adequate sanitary facilities including waste disposal and domestic electricity supply.

2.2 National Housing Goal

To establish a sustainable housing process which enables all people to secure housing with secure tenure within a safe and healthy environment and in viable communities, in a manner that makes a positive contribution to a non-racial, non-sexist, democratic and integrated society, within the shortest possible timeframe.

2.3 Basic Points of Departure

Any housing policy and strategy for the interim or to be addressed in or pursuant to a national housing accord should create an environment conducive to achieving the abovementioned housing goal and be structured in a way that -

2.3.1 Is economically, fiscally, socially and financially sustainable.

2.3.2 Recognises and reinforces the wider economic impact and benefits derived from effective and adequate housing provision in the domestic economy.

2.3.3 Ensures security of tenure and provides for the widest feasible range of tenure options, whether individually or collectively.

- 2.3.4 Maximises the freedom of the individual to exercise choice in the satisfaction of his/her housing needs.
- 2.3.5 Provides access for all people to as many housing options and opportunities as possible.
- 2.3.6 Facilitates co-ordination between various sectors so as to minimise conflict over demands on scarce resources.
- 2.3.7 Generates broad based support and involvement on the part of all key actors in order to maximise the mobilisation of resources.
- 2.3.8 Maximises social and economic benefits to the local community.
- 2.3.9 Effectively balances the need for increased housing delivery so as to achieve short-term impact, which is of fundamental importance, and the requirement that approaches adopted must be broadly supported and capable of being sustained in at least the medium term.
- 2.3.10 Promotes the establishment and development of socially and economically viable communities, with particular focus on members of historically and other disadvantaged communities. In particular, however, the most critical need is to ensure, through State intervention, affordable access for the poor to a minimum acceptable standard of housing and necessary services, within the context of both fiscal and other resource constraints.
- 2.3.11 Promotes the process of social, economic and physical integration in urban and rural areas.
- 2.3.12 Establishes and ensures equity, transparency and accountability by the public sector in its administration of housing in the appropriate government structures at national, regional and local levels. It is imperative that the housing sector is led and supported by a single national policy and rationalised administration which is accountable in a tangible and measurable manner, to achieve broadly based targets which are properly quantified.

- 2.3.13 Maximises the involvement of the community and leads to transfer of skills to and empowerment of the community. Active local participation in decision-making in and ownership of the process leading to the implementation of projects should ensure higher levels of appropriateness and acceptability of such projects as well as the development of skills and capacities within these communities to pursue other development objectives.
- 2.3.14 Creates an environment in which all the role players meet their respective obligations.
- 2.3.15 Leads to effective State intervention and maximises sustained non-state involvement in housing provision. It is recognised and accepted that the resources available from the fiscus are limited.
- 2.3.16 Upholds the principles of vertical and horizontal equity in respect of the subsidisation of end-users. This implies that only people in real need of subsidisation should benefit (vertical equity) while comparable value must be received by beneficiaries with the same eligibility profiles (horizontal equity).
- 2.3.17 Deals sensitively and responsibly with the impact of housing development upon the environment.
- 2.3.18 Stimulates the effective functioning of a sustainable housing market with vigorous and open competition between suppliers of goods and services.
- 2.3.19 Ensures that housing is dealt with on a basis which is non-sexist, not discriminatory in terms of religious conviction or race, nor party political.
- 2.3.20 Procures political commitment to sustainability of the housing process.

3. INTERIM INSTITUTIONAL STRUCTURES

3.1 Restructuring

To give effect to the basic points of departure, there is an urgent need to create interim institutional structures. Pending further constitutional developments, these structures may need to be adapted as the constitutional structures of the country change.

Accordingly, the Minister of National Housing and of Public Works deems it desirable to replace the National Housing Commission and other similar structures and to reorganise their functions, duties and powers.

The Minister therefore proposes to introduce and promote legislation to give effect to the interim institutional arrangements that will provide for a single national housing body, to be known as the National Housing Board, to replace with effect from 1 October 1993 the -

- National Housing Commission, and
- South African Housing Advisory Council; and

with effect from 1 April 1994 the -

- Development and Housing Board (House of Assembly),
- Housing Development Board (House of Delegates),
- Housing Board (House of Representatives), and
- Development Board (House of Representatives).

The National Housing Board will consist of 18 members appointed by the Minister by virtue of their knowledge of and ability in housing matters, being as representative as possible of the various stakeholders in the housing field plus the chairpersons of the Regional Housing Boards. The Minister may, at the request of any member, with the exception of the Chairperson and Vice-chairperson, appoint an alternate member to act for limited periods in the absence of the member. An alternate member may attend a meeting of the Board in the absence of the relevant member and vote on his/her behalf on any matter on which the board is required to take a decision.

The Minister will appoint members of the National Housing Board for an initial 24 month term on the following basis:

- 6 members as nominated by the National Housing Forum;
- 6 members representing Government; and
- the remaining members who have, ~~to be agreed upon between the parties having~~ outstanding knowledge of or expertise in housing and related matters, to be agreed upon between the parties.

~~After consultation between the parties, the Minister will nominate a member as chairperson of the board and the National Housing Forum will nominate another member as vice chairperson of the board.~~ chairpersons for the National and Regional Housing Boards and the National Housing Forum will nominate vice chairpersons. Neither party will unreasonably withhold its approval of the nomination of the other party.

The object of the National Housing Board will be to guide and co-ordinate the execution of national housing policy and strategy, subject to the directions of the Minister.

Regional housing boards will be responsible for the execution of housing policy and strategy under the guidance of the National Housing Board. The Minister will appoint regional housing boards. Provisions relating to the constitution of the National Housing Board, the appointment of its members and ancillary matters will apply mutatis mutandis to regional housing boards. The Minister will, in consultation with the National Housing Board, determine the functions, ~~duties and powers~~ of the regional housing boards. In appointing members to the regional housing boards, the parties will take regional interests into account. The chairpersons of regional housing boards will serve, ex officio, as members of the National Housing Board.

The Minister records that it is intended that the National Housing Board and regional housing boards should make every effort to reach consensus on all matters on which they are required to take decisions. ~~but that,~~

Constitutional

However, in the absence of consensus on a specific decision, the relevant chairperson ~~after~~ in consultation with the vice chairperson ~~after taking all factors into consideration, give a binding ruling which will constitute the decision of the Board.~~ will determine whether sufficient support for a decision to be a binding decision of the relevant Board, exists.

Failing consensus between the chair and vice chairperson on whether sufficient support for a decision to constitute a binding decision of the Board exists, a special meeting of the relevant Board within a maximum period of 14 days, will be convened by the chairperson, to reconsider the matter.

Should consensus again not be attained on the matter at hand, the chairperson, after consultation with the vice chairperson, will give a binding ruling on whether sufficient support for a specific decision to constitute a decision of the Board, exists.

The quorum at any meeting of a board will be two thirds of the members of that board. A member who is not in agreement with a decision of the Board, will be entitled to request that such ~~dissenting vote~~ ~~dissention~~ be ~~appropriately~~ recorded in the minutes.

For purposes of the administration of the assets of the National Housing Board, provision is made for the appointment of committees of officials at regional level. These committees are to administer the assets of the National Housing Board under the policy directives of the Board, as approved by the Minister. Chair and Vice-Chairpersons of these regional administrative committees are to be appointed after consultation with the National Housing Board.

To assist the National Housing Board in the performance or exercise of its functions, duties and powers, the Minister, or with his authorisation, the Director-general will, after consultation with the National Housing Board, designate an adequate complement of officers and employees (including employees on contract) of the Department as contemplated in section 7(1) of the Public Service Act, 1984, ~~or~~ ~~appoint any such person as he may deem fit,~~ to render an effective and objective service to the Board. ~~To assist the Regional Housing Boards in the performance or exercise of their functions, duties and powers, the Administrators of the Provinces or, if authorised, the Directors General of the Provinces will, after consultation with the relevant Regional Housing Board, designate an adequate complement of officers~~

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and employees (including employees on contract) of the Provincial Administration, or appoint any such other person as they may deem fit, to render an effective and objective service to these Boards. ~~Appointments to the secretariat are to be made after, in consultation with the Chairperson and Vice Chairperson of the Board. These arrangements will apply mutatis mutandis to the Directors General of the Provincial Administrations and the regional housing boards. These arrangements will apply mutatis mutandis, subject to the authorisation of the Minister, to the Directors General of the Provincial Administrations and the Regional Housing Boards.~~ Appointments of the heads of the National and Regional secretariats are to be made in consultation with the Chairperson and Vice Chairperson of the relevant Board.

The Director-general: Local Government and National Housing will be responsible for the administration of the various statutory funds. He will be the accounting officer for purposes of the Exchequer Act, 1975, in relation to the moneys of such funds, subject to the Director-general of a Provincial Administration being responsible, as accounting officer, for so much of the moneys of such funds that have been entrusted to him in connection with the performance or exercise of the functions, powers and duties of a regional housing board or committee of officials referred to.

3.2 Guidelines for the National Housing Board and Regional Housing Boards

In pursuit of its object, the National Housing Board will consider the following, as guidelines or criteria for application by itself and regional housing boards, within the agreed overall value framework and with due regard to existing housing policy and strategy, as well as to policy adjustments from time to time arising from the ongoing negotiation process on housing policy and strategy as well as changed circumstances:

For purposes of these guidelines "intervention" denotes any measures adopted by the National Housing Board, with the concurrence of the Minister, in furtherance of the vision, goal and points of departure set forth in paragraph 2 above.

3.2.1 Comprehensive Approach

3.2.1.1 In addressing the needs of disadvantaged communities, interventions should support the vision, goal and points of

departure, set out in paragraph 2, as holistically as possible. In particular, attention should be devoted to interventions

- to address the need for end-user subsidisation and finance;
- to achieve the maximum gearing of public sector financial resources for housing with private sector/community resources;
- to build effective institutional capacity; and
- to secure ongoing physical and social development through community capacity building as part of the housing delivery process,

that are, wherever possible, aimed at the optimum realisation of the economic potential of the country and all its peoples. Participation by Government and its intervention in the economy should be limited to the minimum.

3.2.1.2 The upgrading, rehabilitation, consolidation and increasing of existing housing stock (especially in the townships and inner cities) as well as inner city land infill, the upgrading and consolidation of existing informal settlements and the promotion of new areas of informal and formal settlements (including rural areas), are to be supported. The upgrading and/or conversion of existing single accommodation (i.e. hostels) should also be addressed.

3.2.1.3 Interventions should, in principle, apply within the total geographical area of South Africa as constituted at Union in 1910, with due regard to constitutional, jurisdictional and administrative boundaries and constraints, including fiscal transfers.

3.2.2 Social Compacts

- 3.2.2.1 Intervention should serve to maximise harmony between sectors and community cohesion while minimising the potential for conflict over resources. Violence torn areas in which peace and reconstruction pacts have been formed should, where appropriate, receive priority attention.
- 3.2.2.2 Where appropriate, local initiative, participation in and contribution to the planning and implementation of social and physical development activities should be maximised.
- 3.2.2.3 Intervention should, where practicable, stimulate the formation of inclusive community based implementing structures.
- 3.2.2.4 Where necessary, implementing agencies (which may include local authorities), local authorities and representative community organisations should create appropriate institutional structures to ensure effective public participation in respect of project planning, implementation and maintenance.
- 3.2.2.5 Social and economic benefits to the locally affected community should be maximised.
- 3.2.2.6 Except in special circumstances, allocations of subsidies should be made directly to end-users, or in respect of a particular envisaged project, to end-users applying on a collective basis. If the subsidy scheme is project-based, each resulting project application should be supported by a broad social compact between the applicant community / group and all relevant other local stakeholders. Such compacts should result in the quantification of contributions to the project by each stakeholder (including relevant authorities and the community) and in the clear definition of roles and responsibilities.
- 3.2.2.7 Intervention should be based on the principle of payment for services rendered and received.
- 3.2.2.8 Local authorities should also be encouraged to play a full and supportive role. In all instances, such authorities must demonstrate capability to deliver and perform efficiently and productively.

3.2.3 New Housing Initiatives/Measures

- 3.2.3.1 Without pre-empting the outcome of longer term policy negotiations between the parties, the Board should consider, as a matter of urgency, an equitable level of subsidisation for the interim with due regard to existing subsidy schemes or formulae, as well as fiscal capacity and sustainability.
- 3.2.3.2 Interventions introduced during the interim period should be seen as the first phase of an ongoing process of rationalisation to improve transparency, efficiency and accountability within the housing sector.
- 3.2.3.3 Such interventions should achieve sustained involvement of both the public and private sectors in housing delivery.
- 3.2.3.4 Such interventions should be directed at maximising the freedom of choice of consumers in the housing market.
- 3.2.3.5 A primary objective should be security of tenure without any discrimination in terms of race, sex, marital status, financial means and other factors. Every person shall have the right to acquire, hold and dispose of rights in property ~~and protection against arbitrary dispossession~~. The status of women with respect to access to housing should receive special attention.
- 3.2.3.6 Intervention should direct development towards existing economic opportunities and promote economic efficiency and spatial integration through the optimisation of location, service levels and housing standards.

3.2.4 Consideration of Projects

- 3.2.4.1 Project selection procedures should not exclude any potential roleplayers capable of fulfilling their responsibilities productively and effectively.
- 3.2.4.2 Project proposals should demonstrate level playing fields between government and non-government delivery agencies. For example there

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should be no additional subsidies or preferential State assistance favouring any delivery agencies, other than in exceptional circumstances.

- 3.2.4.3 Without neglecting rural areas, priority should be given to housing projects effectively addressing the deficiencies in spatial ordering in South African towns and cities and which provide housing opportunities with convenient access to economic opportunities and health, educational and social amenities.
- 3.2.4.4 Emphasis in terms of State assistance should be placed on project applications focusing on those with the least ability to contribute to the satisfaction of their own housing requirements.
- 3.2.4.5 Continued financial and economic sustainability of interventions should be demonstrated at the stage of application. Recurrent financial obligations for the State should be minimized as far as possible.
- 3.2.4.6 Projects should, other than in exceptional circumstances, clearly demonstrate appropriate provision for training and the transfer of skills and should also provide for appropriate ongoing support for local small business and/or co-operative development.
- 3.2.4.7 Other than in exceptional circumstances, project applications should demonstrate effective and sustainable participation of communities in decision-making processes around the planning and implementation of housing projects, with the focus upon the transfer of skills to and empowerment of local participants.
- 3.2.4.8 Emphasis should be given in projects to maximising the gearing of public sector funds with private sector finance, including personal savings and contributions in cash or in kind, within the affordability constraints of the individual.
- 3.2.4.9 Project proposals should contain and demonstrate an approach ensuring access to all housing opportunities which is not racially biased or based on discrimination in respect of religion, political conviction or gender.