

SUBMISSION

TO : PROJECT ADVISORY COMMITTEE FOR RECOMENDATION
TO THE MEC FOR HOUSING : KWAZULU -NATAL

SUBJECT : TRANSFER OF PROPERTY BY A MUNICIPALITY WHERE A
BENEFICIARY CANNOT BE FOUND

PURPOSE

To recommend a policy whereby empty houses can be secured against invasion, when the beneficiary cannot be found.

BACKGROUND

1. A summary of the department's policy on missing beneficiaries is as follows:-

SCENARIO 1:

When a beneficiary has concluded a sale agreement with the developer but the transfer has not taken place, but the developer cannot find him to sign the transfer documentation, the developer must make all possible attempts to locate the beneficiary or his /her family. Should the beneficiary not respond within the prescribed notice period, the sale is cancelled and the property sold to another qualifying beneficiary.

SCENARIO 2:

When the beneficiary has taken transfer of the property but the developer cannot find him/her to sign the D4 certificate, the developer must take all possible steps to locate the beneficiary or his/her family. Should the beneficiary not respond within prescribed notice period, the developer can submit an affidavit indicating that all reasonable and necessary steps have been taken to locate the beneficiary, which is accepted in place of the D4 certificate for purpose of the P5 payment.

2. The second scenario results in an empty house , which is exposed to vandalism and/or invasion.

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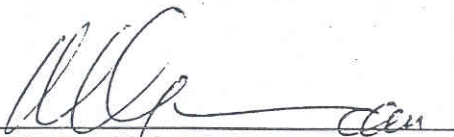


3. It is proposed that once the developer has followed the procedure as spelt out in scenario 2, the house be handed over to the municipality who should rent the house out until the owner claims the house, or 8 years have expired. The rental, less rates and reasonable maintenance fees, is to be paid into the Guardian's Fund.
4. After a period of 8 years, being the prescribed retention period for subsidised houses as per the KZN Housing Amendment Act, the municipality can expropriate the house and sell it to another qualifying beneficiary.

RECOMMENDATION

That the following policy be applied when a beneficiary cannot be located after the transfer of the property to him/her has been effected, and the developer has complied with the policy on missing beneficiaries:-

- (a) The department advises the municipality of the situation and the municipality accordingly takes charge of the property.
- (b) The municipality rents the house out at a reasonable rental.
- (c) The municipality retains from the rental the rates and a reasonable maintenance fee, and pays the balance into the Guardian's Fund at the Master of the High Court to be held in trust for the owner.
- (d) The municipality maintains the house for the period the house is under its control.
- (e) If the owner does not claim the house within a period of 8 years, which period is based on retention period prescribed for subsidised houses in KZN Housing Amendment Act, the municipality may expropriate the house and sell it to a qualifying beneficiary.
- (f) The income from the sale must be paid into the owners trust account in the Guardians's Fund at the Master of the High Court.
- (g) The municipality reports to the department on the status of these properties on a quarterly basis.


MRS M. GODLIMAN
CHIEF DIRECTOR: POLICY,
PLANNING & LEGAL SERVICES

14.8.01
DATE

SUPPORTED

E.M. K...
CHAIRPERSON
PROJECT ADVISORY COMMITTEE

18/9/2001
DATE

~~APPROVED/APPROVED AS AMENDED/NOT APPROVED~~

Mr D. H. Makhay
MR D. H. MAKHAYE : MEC
MEC OF HOUSING

15/10/2001
DATE

