



KZN Housing

**uMnyango:
wezeZindlu
ISIFUNDAZWE SAKWAZULU-NATALI**

<i>Enquiries: Ms D A Duval</i>	<i>Tolaram House</i>	<i>Private Bag X54367</i>
<i>Ref: 1/P</i>	<i>2 Aliwal Street</i>	<i>DURBAN</i>
<i>Tel: 031 336 5360</i>	<i>Durban</i>	<i>4000</i>
<i>Fax: 031 336 5145</i>	<i>4001</i>	
<i>e-mail: Dlaine.Duval@kznhousing.gov.za</i>		
<i>website: www.kznhousing.gov.za</i>		

**TO : MS SZF NYANDU
HEAD OF DEPARTMENT**

**SUBJECT : POLICY DIRECTIVE ON ONE HOUSE PER UMUZI: RURAL
INFORMAL LAND RIGHTS SUBSIDY INSTRUMENT**

1. PURPOSE

The purpose of the submission is to seek approval for the policy directive on the principle of one house per umuzi (Rural (Informal Land Rights) subsidy instrument).

2. PROBLEM STATEMENT

Accelerating rural development is a key Departmental output. An equitable distribution of subsidies is required, as far as possible, to ensure the realization of the progressive right to adequate housing. Delivery processes have resulted in a concentration of subsidies in some areas, whilst others have not yet benefited from such an opportunity. A number of housing projects delivered more than one house per umuzi. This has also raised concerns that the cultural dimensions in the allocation of sites might be ignored to achieve numbers.

3. BACKGROUND

- 3.1** The legislation and policies relating to housing are silent on the number of houses to be built per umuzi. In the context of this document, "umuzi" is interpreted as a homestead in rural areas, and in the context of rural subsidies, homesteads in Ingonyama Trust areas.
- 3.2** The current provincial guidelines indicate a maximum number of one thousand units to be built per project area. In order to achieve this number more than one house per umuzi was built. Densification initiatives by developers, implementing agents, and/or project managers to achieve economies of scale, resulted in more than one house per umuzi being built.
- 3.3** This resulted in an unequal distribution of resources in certain municipalities and/or traditional council areas.
- 3.4** There are also limited resources to cater for a variety of housing needs and initiatives within the Province (e.g. slums clearance).

4. POLICY CONSIDERATIONS

- 4.1** The limitation on the number of houses that can be built in a project area might be perceived as an infringement on an individual's right in terms of the Constitution, Housing Acts and policies. The Bill of Rights (Section 26 of the Constitution) emphasizes that everyone has "the right to adequate housing". The Housing act is silent on the matter, but emphasizes the need for housing for all citizens. The Bill of Rights, however, takes note that "it is government's duty to take reasonable legislative and other measures, to achieve the realization of the right on a progressive basis". The right is to be achieved on a progressive basis as it is practically impossible, due to resource constraints to achieve delivery to all at the same point in time. The Bill of Rights thus recognizes that adequate housing cannot be achieved immediately, but needs to be delivered over time.
- 4.2** Individuals residing in rural areas constitute the larger part of the Province. The Comprehensive Plan on sustainable human settlements acknowledges this and aims to ensure equality in these areas.
- 4.3** The limitation might further be perceived as creating disparity between urban and rural areas in that family members in an urban area potentially qualify for housing whilst limiting this opportunity in rural areas. It needs to be noted however, that the nature of rural and urban living is different, especially with regard to cultural dimensions, e.g. unmarried women, typically, are cared for by the head of the household in the traditional setting, including accommodation. Urban areas on the other hand are more prone to overcrowding.
- 4.4** The limitation could impact on development in the context of economies of scale due to increased distance between construction sites in dispersed location. This impact could be reduced by more careful selection of projects and construction planning in some cases. However, there are remote areas in which there is a real need for housing where this approach might not be possible. Some flexibility is required to accommodate these cases, especially where NHBRC enrolment and compliance to product specification is required. It is suggested that such cases should be motivated upfront, and supported by the regional office.
- 4.5** It is suggested that, given the policy be communicated as a directive which aims to ensure a fairer distribution of subsidies within the Province. Beneficiaries in all rural areas will be afforded the opportunity to access housing on a progressive basis for example, qualifying siblings within the umuzi may be accommodated in future phases of housing delivery in the area.
- 4.6** It should be noted that the national (old and new code) and provincial rural housing policies clearly state that the beneficiary of the housing subsidy qualify on the basis that "he/she is the holder of an informal right, and complies with all other aspects of the qualification criteria" (National Housing Code, 2000:378).

5. POLICY DIRECTIVE

5.1 This directive addresses the implementation of the limitation of one house per umuzi in rural (informal land rights) projects.

5.2 The limitation of one house per umuzi aims to ensure a fairer distribution of rural subsidies within the different geographic areas of the Province. Beneficiaries in all rural areas will be afforded the opportunity to access housing on a progressive basis for example, qualifying siblings within the umuzi may be accommodated in future phases of housing delivery in the area. This is in line with the progressive right to housing, as state in the Bill of Rights (Section 26 of the Constitution).

5.3 The limitation should be implemented as follows:

5.3.1 The person who holds the uncontested right in the form of a certificate of occupation relating to allocated site upon which the umuzi is situated, must be the only person to be considered for a housing subsidy. The said person must meet all the qualification criteria for a housing subsidy.

5.3.2 In instances where there is a polygamous union, the head of the household may apply for as many subsidies as the number of wives that he has, in terms of the Department's policy on polygamous unions. However, beneficiaries need to be cautioned that should the polygamous union dissolve, the subsidy will have to be refunded to the Department, by the individual, unless it is allocated to another qualifying beneficiary (such as qualifying siblings of such union). It is therefore recommended that the principle of only one house per umuzi still be applied to ensure a greater spread of subsidies. In this case the holder of the certificate of occupation may elect for the subsidy to be awarded to one of his/her spouses, and/or qualifying siblings of a polygamous union, should they qualify.

5.3.3 In the event that the holder of the right and/or the spouse/s passes on, the law of succession shall apply in terms of:

- Last will and testament
- If there is no will, then marital arrangements in the case of surviving spouse (customary or civil, whichever applies),
- If both parents have passed on, the rights of the siblings are to be determined in terms of customary law or court order where there is a dispute.

5.3.4 The allocation of a house should be based on the prioritization of needs, as agreed with the traditional leadership and holder of the informal right, as registered in the certificate of occupation registered with the department responsible for Traditional Affairs (currently the Department of local Government and Traditional Affairs). The remaining qualifying individuals would be considered in future projects on a progressive basis.

6. **MOTIVATION**

- 6.1 The limitation of one house per umuzi per project will allow for access to the subsidy to be spread across the province beneficiaries, whilst allowing progressively realizing the rights of those who would be catered for at a later stage.
- 6.2 It takes greater cognizance of the customs in the allocation of houses in rural homesteads and clarifies the situation regarding polygamous unions and law of succession.
- 6.3 Whereas this is not a new policy, but clarification and directive based on the Department's interpretation on the application of the policy, it is suggested that the directive be issued from the Office of the Head of Department. A draft letter is attached for signature by the Head of Department, should she agree.

7. **RECOMMENDATION**

It is recommended that the policy directive outlined in paragraph 5 be adopted and communicated to all stakeholders from the Office of the Head of Department.


SUBMITTED



MRS M MILNE
MANAGER: PRODUCT DEVELOPMENT


27/2/2009
DATE

SUPPORTED/NOT SUPPORTED




MS T. NTSINCA
GENERAL MANAGER:
PRODUCT DEVELOPMENT

26.03.09
DATE

as per / supported


MR J S NDUMALO
ACTING CHIEF OPERATIONS OFFICER

06/05/2009
DATE



MS SZF NYANDU
HEAD OF DEPARTMENT
DEPARTMENT OF HOUSING

12/05/09
DATE

uMnyango wezeZindlu / Departement van Behuising