

**PROVINCE OF  
KWAZULU-NATAL**

DEPARTMENT OF LOCAL  
GOVERNMENT AND HOUSING

HEAD OFFICE

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## **AIDS: PROVISION OF HOUSING**

### **GUIDELINES OF THE PROVINCIAL HOUSING AND DEVELOPMENT BOARD OF KWAZULU-NATAL**

#### **1 INTRODUCTION**

- 1.1 In terms of section 26(1) of the Constitution of the Republic of South Africa, Act 108 of 1996, "everyone has the right to have access to adequate housing".
- 1.2 In terms of section 27(1)(c) of the Constitution, everyone has the right to have access to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- 1.3 In terms of section 28(1)(b) of the Constitution, every child has the right to family care or parental care, or to appropriate alternative care when removed from the family environment.
- 1.4 In terms of section 28(1)(c) of the Constitution, every child has the right to basic nutrition, shelter, basic health care services and social services.
- 1.5 In terms of the Housing Act, 107 of 1997, national, provincial and local spheres of government must:
  - 1.5.1 give priority to the needs of the poor in respect of housing development;
  - 1.5.2 promote the establishment, development and maintenance of socially and economically viable communities and safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions;
  - 1.5.3 promote the meeting of special housing needs, including, but not limited to, the needs of the disabled;
  - 1.5.4 in the administration of any matter relating to housing development, respect, protect, promote and fulfill the rights in the Bill of Rights in chapter 2 of the Constitution.
- 1.6 At present, it is estimated that one in three people in KwaZulu-Natal are infected with HIV. By the year 2008, one million five hundred thousand heads of

households will be children in South Africa.

- 1.7 By the year 2010, it is estimated that there will be 750 000 AIDS orphans in KwaZulu-Natal alone. Between 25 and 40% of babies born of HIV mothers will not become infected with the disease. AIDS orphans therefore result not only from the death of parents who have AIDS but also as a result of birth to women effected with AIDS.
- 1.8 The crisis caused by AIDS therefore affects the provision of housing in two fundamental ways:
  - 1.8.1 firstly, as a result of the lack of accommodation for persons affected by the disease;
  - 1.8.2 secondly, through orphans being left with no parents as a result of the disease, and no place to live.
- 1.9 It is submitted that the provision of funding for housing to deal with some of the consequences of the crisis caused by AIDS is wholly in keeping with the role of the Provincial Housing and Development Board (hereinafter referred to as the "PHDB") in achieving the objectives of the Constitution of the Republic of South Africa, Act 108 of 1996 and the Housing Act, 107 of 1997.

## **2 PARAMETERS OF THE ASSISTANCE THE PHDB CAN OFFER**

- 2.1 It is submitted that the PHDB can assist with the alleviation of the crisis caused by AIDS by providing funding for the provision of accommodation for victims of the disease on one of the following bases:
  - 2.1.1 through the establishment of cluster homes or children's villages for AIDS orphans;
  - 2.1.2 through the provision of transitional housing for adults and children who are suddenly faced with having no bread winner as a result of a death because of AIDS;
  - 2.1.3 by the provision of facilities for home based care where families are prepared to assist by looking after victims of AIDS, whether persons with AIDS or AIDS orphans.
- 2.2 Given the fact that the PHDB must work within the parameters set by the existing manual, the institutional subsidy route, or a variation thereof, is deemed the most appropriate route to follow with regard to the provision of funding for the purpose set out above. It is submitted that existing subsidy procedures allow for the provision of housing in terms of clauses 2.1.1 and 2.1.2 above. The use of subsidies for the provision of housing in terms of clause 2.1.3 above requires further investigation and discussion with the National Department of Housing.

## **3 CONTENT OF APPLICATION**

- 3.1 Full details of proposed beneficiaries of the facility must be provided. The

- applicant must demonstrate the need for the facility and indicate how the facility will address that need.
- 3.2 An application for funding in terms of these guidelines must provide full details of the type of facility that is envisaged. The acquisition of an existing facility or the construction of a new one will both be considered by the PHDB.
  - 3.3 It must be indicated by the applicant which type of facility will be created.
  - 3.4 Details relating to the institutional requirement, dealt with more fully below, must be given. The PHDB will require full disclosure of all persons involved in the management of the proposed facility to ensure that the applicant has the capacity required to operate the proposed facility.
  - 3.5 Full details of the property on which the facility will be constructed must be given. The value of the property together with any outstanding mortgage bonds must be given by the applicant.
  - 3.6 The title deed of the property must be given.
  - 3.7 Full specifications for the facility must be given. Detailed plans of the proposed facility must be provided to the PHDB together with detailed costings of any alternations required to an existing facility or of the construction of a new facility. Full details of building techniques and specifications of finishes must be provided. It will be necessary for the applicant to provide a bill of quantities and a bill of costs before any agreement is concluded with the applicant leading to the provision of funding for the facility.
  - 3.8 Subsidies will be granted according to the number of beds provided by the facility. The number of subsidies which the applicant is applying for must be given together with details on how these subsidies are determined.
  - 3.9 The applicant must indicate the milestones according to which it wishes to be paid for consideration by the PHDB.
  - 3.10 The applicant must provide a budget for monthly and annual operating costs. Furthermore, details must be given as to how these costs will be recovered to ensure that the facility is viable in the long term.

## **4 INSTITUTIONAL REQUIREMENTS**

### **4.1 Children's village or transitional accommodation**

- 4.1.1 An appropriate institution must be established. Although the PHDB has a discretion and will, on good cause shown, allow the use of one of the other legal entities allowed in terms of part 7 of the manual, a section 21 company is deemed most appropriate in this instance.

- 4.1.2 The institution must either own the property on which the facility is to be established or, alternatively, must have a registered long term lease in respect of that property. It is noted that it will never be the intention with these projects, for the property or any portion thereof to be transferred to the beneficiaries of the project. The use of a registered power of attorney, as is currently allowed with conventional institutional subsidy projects, will therefore not be acceptable.
- 4.1.3 In the case of a project which is being driven by a municipality, the members and board of directors of the section 21 company should be councillors and officials of that municipality.
- 4.1.4 In the case of charitable projects, the PHDB will require that the membership of the company and its board of directors has sufficient capacity and expertise in order to oversee, manage and implement such a project.
- 4.1.5 In the case of a charitable project, the institution must be used for one project only. The PHDB requires that a separate institution be formed for each charitable project, even though the same charitable group may be involved with different projects. This is in order to secure the PHDB's investment in each individual project and not allow the risk from one project to be transferred to another.
- 4.1.6 In the case of projects driven by municipalities, the PHDB would also prefer that a separate institution be used for each project but will exercise its discretion in this regard on good cause shown.
- 4.1.7 The PHDB will in every instance exercise its discretion in order to ensure that the institutional arrangements proposed for a particular project are suitable for that project.

## 4.2 **Home-based care**

- 4.2.1 It is recognised that because of the sheer size of the problem, it is highly unlikely that it will be possible or feasible to establish enough institutions and facilities of the type described above to cope with the problems arising from the AIDS epidemic.
- 4.2.2 It is therefore necessary to encourage the provision of home based care for both persons who have the disease and AIDS orphans.
- 4.2.3 At the same time however, the PHDB recognises that unless the provision of such facilities is carefully controlled and managed, there is a likelihood that abuse of the policy will occur.
- 4.2.4 The PHDB will therefore investigate the recognition of suitable welfare organisations, whether governmental or non-governmental, which operate in this field and which meet criteria laid down by the PHDB from time to time.
- 4.2.5 If an individual wishes to apply for funding to create accommodation on his or her property for victims of AIDS, whether persons with the disease or AIDS orphans, it is proposed that it will be necessary for such application to be accompanied by

the endorsement of a welfare organisation which has been approved by the PHDB.

- 4.2.6 In addition, an undertaking will be required from that welfare organisation that it shall monitor, on a regular basis, the accommodation provided and the use to which it is put in order to ensure that funding provided by the PHDB is applied for its intended purpose.
- 4.2.7 The provision of home-based care for victims of AIDS requires further consideration and investigation.

## **5 DETERMINATION AND PAYMENT OF SUBSIDY**

- 5.1 It is a fundamental requirement of the manual that the identity of beneficiaries must be known before the full subsidy allowed can be paid.
- 5.2 If the strict requirements set out in Part 2 of Volume A of the Housing Subsidy Manual are applied, they will be restrictive and will prevent the efficient implementation of these guidelines.
- 5.3 In the case of housing provided for victims of AIDS therefore, beneficiaries will not be identified and their names will not be registered on the national data base. Given the fact that many beneficiaries will be children, this is entirely appropriate.
- 5.4 The subsidy which will be granted for accommodation for AIDS victims will be entirely in the discretion of the PHDB. It will depend on the content of the application made by the relevant applicant and full information must therefore be given by the applicant to enable the PHDB to make an informed decision.
- 5.5 The PHDB will have a wide discretion with regard to the imposition of milestones for the purpose of progress payments. The PHDB will aim to ensure that the successful applicant's cash flow is facilitated as a result of progress payments being made according to appropriate milestones, thereby reducing holding costs of that applicant. It must be borne in mind that in many instances, the applicant will be either an individual or a non-governmental organisation and may not have access to bridging finance in the same way as the ordinary developer does.

## **6 OBLIGATIONS OF THE INSTITUTION**

- 6.1 Although the details of beneficiaries will not be kept on the National Data Base maintained by the PHDB, the institution will be required to keep a register of all occupants with details including the occupant's name, identity number, occupation and usual address. The PHDB will be entitled to have access to this register at all reasonable times in order to ensure that the facility is used for its intended purpose.
- 6.2 Welfare organisations approved by the PHDB in terms of the provisions set out above, may from time to time act as agents of the PHDB in monitoring facilities found in terms of this policy. They too will have unimpeded access to such

facilities to ensure that this policy is being implemented correctly.

- 6.3 The institution must, with its application for financial assistance, provide details of the house rules which will apply to the facility.

## **7 TERMINATION OF THE FACILITY**

- 7.1 In the event of the institution discontinuing the operation of the facility for which subsidies in terms of these guidelines have been received, then the institution and assets under its control must be applied to a facility of a similar nature.
- 7.2 Notwithstanding the provisions of paragraph 7.1 above, the PHDB will always have a discretion with regard to the recovery of subsidies paid to the institution for the establishment of the facility.

## **8 CONCLUSION**

- 8.1 Whilst the necessity for the facilities referred to in this document is accepted, in every instance the obligation will be on the applicant to demonstrate that the operation of the facility is feasible in the long term and will meet the stated objectives of the institution.
- 8.2 The provision of children's villages and transitional accommodation in terms of clause 4.1 above can be achieved within existing subsidy procedures such as those for transitional and institutional housing. It is therefore possible for the PHDB to consider applications for such facilities.
- 8.3 The provision of facilities for home-based care requires further investigation and needs to be workshopped with the National Department of Housing.
- 8.4 The PHDB accepts that it has a role in dealing with the ramifications of the AIDS crisis in the Province of KwaZulu-Natal. The policy of the PHDB will be developed over time as the provision of housing for AIDS victims is investigated further.