



KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS
REPUBLIC OF SOUTH AFRICA

Policy Communiqué

Circular No. 3/2021

Date : 27th July 2021



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ENHANCEMENTS TO CRU STANDARDS AND COSTING

The Provincial Department of Human Settlements developed a Community Residential Units Policy Guideline on Standards and Costing, which was approved by the MEC on 21 October 2014. These standards provided for strip and pile foundations but exclude raft foundations in the construction of CRU's. In terms of the various typologies through which the CRU is being delivered, there is a need to allow for the use of raft foundations. This type of foundation has been identified as suitable for the row housing typology. The National Housing Code, 2009 makes provision for the construction of row houses as one option to provide for rental accommodation through the Social Housing, Community Residential Units and Institutional Housing Programmes. Since the approval of the CRU Policy Guideline on Standards and Costing in 2014 the associated costs have not been aligned to inflationary changes. This has created a challenge for developers to deliver CRU's in the current economic environment. In view thereof, the Department has enhanced the standards and costs to allow for the impact of inflation. Furthermore, through the implementation process since 2014, it has been identified that some activities such as social facilitation during the planning phase of the project as well as the professional fees, contingency costs, preliminaries for external works and the installation of curtain rails needed to be costed and provided for. In view of the above, Enhancements to the CRU Standards and Costings were approved by the former MEC for Human Settlements and Public Works on 28 January 2021. The effective date for the implementation of the Enhancements to the Community Residential Units Standards and Costing is 28 January 2021.

1. Enhancements

In June 2018, the Department appointed two service providers to undertake designs of row housing using raft foundations and to conduct a cost analysis thereof. These designs and applicable costs may be accessed on the Department's website.

In an effort to establish a fair escalation on the approved 2014 costs, the Department has aligned the costs to the 2018/19 national subsidy quantum adjustment percentage of 5,336% plus 12,4% calculated as the total average of the 2018(8%) and 2019 (4,4%) quarterly Bureau of Economic Research Building Cost Index (BER-BCI) escalations. The total increase to be applied for the 2020 cost is therefore 17, 7%. The following table reflects the cost of the new raft foundations and escalated costs of the CRU Standards with strip and pile foundations.

ITEM DESCRIPTION	COST PER ITEM IN 2014	COST PER ITEM IN 2020
9m ² Guard house with strip foundation	R 72 937.02	R 87 221,77
9m ² Guard house with raft foundation	None	R 111 124,75
9m ² Guard house with pile foundation	R 113 200.61	R 135 027,73
19m ² Office block with strip foundation	R177 074.87	R 212 004,75
19m ² Office block with raft foundation	None	R 247 372,75
19m ² Office block with pile foundation	R236 650.83	R 282 740,75
35m ² Unit with strip foundation	R 211 335. 00	R 252 387,11
35m ² Unit with raft foundation	None	R 288 995,82
35m ² Unit with pile foundation	R 273 001.86	R 325 604,53
45m ² Unit with strip foundation	R 269 466.82	R 322 322,84
45m ² Unit with raft foundation	None	R 369 391,19
45m ² Unit with pile foundation	R 348 751.53	R 416 459,53

Social facilitation activities that are undertaken during the construction phase are also undertaken during the planning phase of the project. This includes the following activities:

- a) Consultation and liaison with community leaders, community representative structures and community members to leverage trust and relationships;
- b) Communication and liaison with service providers and all relevant stakeholders to aim a smooth and successful implementation;
- c) Facilitate community beneficiaries and assist with administration & handling of different queries;
- d) Attend all community, Project Steering Committee (PSC) and stakeholders' meetings during working and after working hours including weekends;
- e) Coordinate briefing sessions and workshops if required; Compile comprehensive reports about the progress of the project and challenges of the project on a monthly basis;
- f) Development of clear social facilitation plan to be used during the duration of the project;
- g) Any additional tasks that may arise which fall within the socio-political or economical component of the project.

It must be noted that in more complex projects, social facilitation also includes activities such as, but not limited to:

- a) Physical verification of beneficiaries;
- b) Decanting of beneficiaries/people from the Informal Settlements to temporal structures or completed CRU's;
- c) Update the beneficiary schedules by re-doing the physical verification /social surveys;
- d) Consultation with the Department of Home Affairs and the South African Police Service (SAPS) to assist in removing all illegal or unlawful foreign nationals;
- e) Facilitation on the demolishing of all illegal structures (shacks);
- f) Resolving of general tenancy matters and conflict;
- g) Assisting in the process of the allocation of beneficiaries;
- h) Developing a Communication plan;
- i) Attending Ad hoc meetings called by political principals, the Department of Human Settlements, the Municipality and the Implementing Agent.

The abovementioned list is reflective of the tasks that the social facilitator undertakes in CRU projects. In view of the volatile nature of this type of project these activities are required in both the planning and construction stages of the project. The costs applicable to Social Facilitation and Tenant Administration have not been escalated by the 17, 7% applicable to the construction costs but are aligned with the draft Revised National CRU Policy as follows:

ACTIVITY	COST
Social Facilitation (Planning & Construction)	R500.00 per unit
Tenant Administration	R350.00 per unit

Due to the densities of CRU projects, extensive external works such as fencing, parking, play areas, etc. are undertaken to ensure a holistic and complete living environment. The Professional fees and Preliminary costs for these tasks will be based on the same percentage applicable to the construction stage of the project as per the 2014 Standards and Costing and will be as follows:

ITEM FOR EXTERNAL WORKS	COST
Professional Fee	10% of total cost for External Works
Preliminaries	9% of total cost for External Works

A Contingency fee to the maximum amount of 5% of the total cost of the project may be allowed. However, the request must be motivated in a submission to the MEC for approval of this funding to be granted.

The cost for the installation of curtain rails has been included in an effort to prevent damage to the internal structure as a result of tenants installing and uninstalling their own curtain rails.

The detailed Enhancements to the CRU Standards and Costing including the Breakdown of costs for Curtain Rails is attached as **Annexure A**.

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INTERIM GUIDELINES FOR THE IDENTIFICATION OF THE RIGHTFUL HOUSING SUBSIDY BENEFICIARIES

The Interim Guidelines for the Identification of the Rightful Housing Subsidy Beneficiaries was approved by the former MEC for Human Settlements and Public Works on 9 September 2020.

1. Introduction

There are some challenges being experienced in the activities to give effect to the National Title Deed Restoration Programme. These challenges pertain to the identification of the rightful housing subsidy beneficiaries, the administration of disputing claims to the right to ownership and the adjudication of such claims to ownership of the same property.

The Title Deed Restoration Programme emanates from the application of the project linked housing subsidy programme and the related project-based developments. The National Housing Policy prescripts until 2007, obliged the developers of housing subsidy financed houses to first transfer the allocated serviced stand in the ownership of the approved beneficiary before the house construction process could proceed. This policy prescript was in many instances not adhered to leading to un-proclaimed townships and a substantial number of completed housing subsidy financed houses that have not been transferred into ownership of their rightful beneficiaries. Due to the time lapse since construction and completions of the dwellings, many factors regarding the occupation and “ownership” of the relevant houses have changed. In many instances the transfer of the properties is now delayed due to uncertainty regarding where the approved beneficiary is, if he/she is not in occupation, how to trace the beneficiary and in cases where death has occurred, who are the rightful heirs to the property. Disputes have now arisen on who the rightful claimant to ownership of the properties are.

These Guidelines provide simple, fair, just, open and transparent processes to regularise occupancy where applicable and to resolve those cases where disputes regarding the rightful occupancy and claims to ownership of the affected property exist.

The implementation of these Guidelines is not compulsory. The parties to the dispute must agree to subject the dispute to the established adjudication process without affecting their rights to submit applications to the High Court if they are not satisfied with the adjudication outcome.

Any financial implications attached to the establishment of the adjudication and appeals panels and any subsequent financial expenditures related to the meetings of the panels and the remuneration of the panel members related to hearings that may be required in resolving conflicting claims must be funded from provincial and municipal operational budgets and thus may not be financed from the Title Deeds Restoration Grant.

2. The Intent of the Guidelines

These guidelines intend to provide guidance on:

- a) The identification and tracking of rightful approved beneficiaries;
- b) The publication of intent to transfer properties;
- c) The process of administering claims received;
- d) Proposed institutional arrangements for the process of disputes resolution;
- e) Proposed dispute resolution processes; and
- f) The process of regularisation of occupancy and the transfer of ownership where applicable

3. Scenarios that may require dispute resolution

The following scenarios may be encountered in regard to the challenges experienced in transferring housing subsidy financed properties to their rightful approved beneficiaries:

3.1 The originally approved beneficiary is not in occupation of the property:

Under this scenario different circumstances could be encountered. These are:

- a) The approved beneficiary may have informally “disposed” off his/her property;
- b) The approved beneficiary is sub-letting his/her property;
- c) The approved beneficiary may never have received vacant occupation of the allocated property as the dwelling/property was invaded by a third party;
- d) The approved beneficiary has passed away and family members are in occupation;
- e) The approved beneficiary has passed away and a third party is occupying the property;
- f) The approved beneficiary has passed away, there is no remaining spouse and the dwelling is occupied by minor children;
- g) The approved beneficiary has divorced his/her spouse, the approved beneficiary has vacated the property and the spouse is in occupation of the property;
- h) The marriage between the approved beneficiary and his or her spouse has collapsed and the beneficiary has vacated the property and the spouse is in occupation of the property, but divorce proceedings were not initiated;
- i) The same scenario as above exist but a third party is in occupation of the property;
- j) The beneficiary was in a cohabiting relationship and has passed away and the cohabiting partner is now in occupation;
- k) The beneficiary has abandoned the property and a third party took occupation, sometimes with the “approval” of councillors.

These guidelines only deal with those cases where disputes exist that need resolution. Therefore, in the scenarios listed above where the approved beneficiary has been divorced, has vacated the house due to the collapse of the marriage/ co-habiting relationship or has passed away, the transfer of the property is subject to the provisions of the legislation that governs the dissolution of marriages and/or the law of succession. These cases are thus not subject to a dispute and the transfer of the properties must be administered as directed by the Court Ruling or the ruling by the Master of the High Court.

Where a legal marriage has collapsed but the couple is not divorced, both parties to the collapsed marriage are affected in regard to their competency to contract. Where the property is to be transferred under these circumstances, the parties should be represented by legal counsel and both parties will have to agree in writing on who will receive registered ownership of the property.

It is also important to acknowledged that where municipalities and provinces have concluded deeds of sale with, or issued deeds of grant to the approved beneficiaries, the rights vested in such transactions are enshrined in law and the transfer of ownership of those properties to their rightful beneficiaries must be prioritised, notwithstanding the circumstances regarding occupation and or allegations that third parties bought the properties through informal sales.

If written evidence is received that the approved beneficiary has in fact concluded a written informal sale agreement and therefore has contravened the provisions of Section 10A of the Housing Act, 1997, the State Attorney/legal counsel of the municipality must be requested to determine whether legal grounds exist for the cancellation of the deed of sale/ deed of grant concluded with the beneficiary. Depending on the advice received, the agreement/deed of grant may be terminated and the property may then be reallocated to the next qualifying beneficiary, which may include the current occupant.

3.2 The originally approved beneficiary is in occupation but a claim(s) to the right of ownership of the property has been received from another party/ies

4. The Process to Effect Transfer of Ownership

4.1 Verifying occupancy

The Kwa-Zulu Natal Department of Human Settlements and municipalities will be required to undertake verification processes to:

- a) Determine which properties that were developed through funding available under the HSDG and which were created in terms of the provisions of the National Housing Programmes that confer registered ownership on approved beneficiaries have not been transferred to the rightful approved beneficiary;
- b) The HSS and housing subsidy approval processes will have to be evaluated to determine whether:
 - i) The property was officially allocated;
 - ii) To whom were they allocated
 - iii) Were housing subsidy application forms submitted and considered;
 - iv) Were subsidy applications approved and if so;
 - v) In favour of whom; and
 - vi) Was a deed of sale concluded or a deed of grant signed and issued.
- c) These properties will therefore still, be registered in the ownership of the municipality or Kwa-Zulu Natal Department of Human Settlements;
- d) It must also be established whether the township establishment process has been concluded. If not, please refer to the guidelines on this matter issued by the Kwa-Zulu Natal Department of Human Settlements.
- e) If the organ of the state concluded a deed of sale or a deed of grant was issued, and it is verified that the beneficiary is still alive, the transfer of the property in ownership of the beneficiary must proceed, notwithstanding the fact that the beneficiary may no longer be in occupation of the dwelling.
- f) If it is established that the beneficiary is deceased, the transfer of ownership must realise in favour of the estate of the deceased beneficiary. If the estate has been finalised the property must be transferred in accordance with the instructions of the Executor of the Estate.
- g) In cases where deeds of sale were not concluded and/or deeds of grants were not issued and it was verified that the beneficiary is alive, the next step will be to undertake occupation verification initiatives on the identified properties to determine:
 - i) Who is in occupation;
 - ii) If the approved beneficiary is not in occupation, how did the current occupant come to occupy the property;
 - iii) The profile of the occupants needs to be established- married or single, single with financial dependants, household income, relationship to approved beneficiary, any contractual agreements concluded between occupier and approved beneficiary, duration of occupation etc

4.2 Tracing the approved beneficiary and considering their rights

If the originally approved beneficiary is alive but not in occupation of the property and his or her whereabouts are unknown, a process must be followed to endeavour to trace the beneficiary. The following should be applied:

4.2.1 Process to trace the beneficiary

Once the occupancy of the property has been established and it has been verified that the original approved beneficiary is not in occupation, the original beneficiary must be traced and it must be established whether he/she is amenable to received registered ownership of the property. Where the organs of the State are unable to determine a postal address or the telephone contact details of the beneficiary to enable it to communicate with the beneficiary, the organ of the state may elect to follow the Deregistration of Beneficiary route as a process to give fair notice of the intent to cancel the original allocation and to re-allocate the property. The prescribed process should be followed.

4.2.2 Where the beneficiary cannot be traced

- a) If the beneficiary cannot be traced and no response to the notices is received, and it is verified that the beneficiary is not deceased and the beneficiary did not conclude a sale agreement with the organ of the state, an application must be made to the MEC to cancel the original allocation and to re-allocate the property;
- b) If the beneficiary is deceased, the property must be transferred to the estate of the deceased beneficiary;
- c) If approval is received for the cancellation of the allocation, the Director: Management Information Systems in the National Department of Human Settlements must be informed of the decision and be requested to remove the allocation from the HSS and the NHSDB;
- d) The original beneficiary may now be replaced with the next approved beneficiary, and/or the current occupant of the dwelling if the occupant satisfies the standard housing subsidy qualification criteria;
- e) The housing subsidy application will be subject to the normal qualification criteria evaluation and data set searches;
- f) If the current occupant does not satisfy the qualification criteria, the various options within the Guidelines may be applied.

4.2.3 Where the beneficiary is traced and he/she relinquishes the rights to the property

The different options within the Guideline should be applied as required.

4.2.4 Where the beneficiary is traced and claims ownership of the property

Where the beneficiary is traced and declares that he/she is claiming the right to registered ownership, the various scenarios may be addressed as advised in the Guideline.

4.2.5 Regularisation: The approved beneficiary could never occupy the dwelling

Where there is illegal occupation or invasion, the prescribed process as per the Guideline must be followed to regularise occupation.

5. Dispute resolution

Adjudication and mediation must be resolved through a specifically constituted Dispute Resolution Committee (comprising of relevant officials and with assistance of legal professionals when required). This committee must encourage an occupier or claimant to submit evidence that he/she is the legal occupier or legally entitled to the property if there are issues regarding occupancy, deceased estate issues or illegal occupation. The committee must consider the facts before it and make recommendations to the Head of Department.

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The detailed Enhancements to the CRU Standards and Costing & Interim Guidelines for the Identification of the Rightful Housing Subsidy Beneficiaries may be accessed on the Department's website using the following link:
<https://www.kzndhs.gov.za/index.php/features/policy-documents/provincial-policies>

ANNEXURE A

Enhancements to the CRU Standards and Costing including the Breakdown of costs for Curtain Rails