

POLICY ON MISSING BENEFICIARIES

Housing Policy Communiqué No. 1/2001 contained an article on the policy on missing beneficiaries. The following article is an edited version of that article.

There are two scenarios in which this policy can be applied:-

Scenario 1:

When a beneficiary has concluded a sale agreement with the Developer/Municipality but the transfer has not taken place. This beneficiary has been approved and entered on the National Housing Database but is now missing. The Developer/Municipality must try to locate the beneficiary or his/her family at the last given address allowing the beneficiary a period of thirty(30) days to respond. Should the beneficiary not respond within the given period then, he/she is in breach of contract since he/she has not taken transfer of the property. The sale can therefore be cancelled and the property reallocated. The missing beneficiary's name must then be removed from the National Housing Database since he/ she did not receive the subsidy and replaced by the new beneficiary.

Scenario 2:

When a subsidy has been approved and the beneficiary has taken transfer of the property but the Developer/Municipality cannot find him/her to sign the D4 certificate. In this case the Developer/Municipality must try to locate the beneficiary or his/her family at the last given address allowing the beneficiary a period of thirty(30) days to respond. The Developer/Municipality must also place a notice in the local newspapers requesting the beneficiary to take occupation of the property within a period of thirty (30) days. Should the beneficiary not respond within the given period, the Developer/Municipality can furnish an affidavit indicating that all reasonable and necessary steps have been taken to locate the beneficiary. The affidavit should also declare that a notice was placed in the local newspapers and a copy of the notice should be attached. This affidavit will then be accepted in place of the D4 certificate for purposes of the P5 payment.

A suggestion to developers is to obtain a Power of Attorney from each beneficiary when applying for a subsidy authorising someone else (such as a family member in the project area) to accept the completed house by signing the D4 certificate, should he/she not be available on completion of the house. An example of a Power of Attorney is attached as Annexure C. There remains the possibility that both the beneficiary and his family cannot be traced whilst the property has been transferred into that beneficiary's name. Such situation implies that an empty house will be exposed to vandalism. It is proposed that once the developer has followed the procedure as spelt out in scenario 2 the completed house be handed over to the municipality who can temporarily allocate the house to another potential beneficiary. The municipality must then follow the due legal process for de-registration or expropriation.