



Drakenstein Municipality

Housing Policy

27 JANUARY 2016

TABLE OF CONTENTS**DEFINITIONS**

1. INTRODUCTION	4
2. GUIDING PRINCIPLES	5
3. HOUSING DEVELOPMENT POLICY	6
3.1 NATIONAL HOUSING VISION	6
3.2 WESTERN CAPE PROVINCIAL HOUSING ACT 6 OF 1999	7
3.3 ROLES AND FUNCTIONS	7
3.3.1 National Government	7
3.3.2 Provincial Government	8
3.3.3 Municipalities	9
3.4 HOUSING SUBSIDY GUIDELINES FOR APPLICATIONS BY THE NATIONAL AND REGIONAL HOUSING BOARDS	10
3.4.1. National Housing Goal	10
3.4.2. Basic Points of Departure	10
3.5 STRATEGIC INFORMANTS	11
3.6 STRATEGIC DIRECTIVES	12
3.7 GAP MARKET: LINKING INCOME AND HOUSING PRODUCT	14
3.8 RURAL HOUSING	15
3.9 LAND INVASION AND SQUATTER CONTROL	22
3.10 LAND SWOP AND ACQUISITION	25
3.11 MAINTENANCE OF RENTAL UNITS	27
4. HOUSING ADMINISTRATION	31
4.1. ORGANISATIONAL FRAMEWORK WITHIN WHICH THE CURRENT HOUSING POLICY IS IMPLEMENTED	31
4.1.1. Housing subsidy scheme	31
4.1.2. Sale of state land – financed housing	31
4.2. ADMINISTRATION OF HOUSING SCHEMES	31
4.2.1. Powers that have been delegated to the Housing Committee	31
4.2.2. Requirements to qualify as applicants for existing municipal dwellings	32
4.2.3. Allocation of vacant municipal dwellings or sites in transit camps	32
4.2.4. Municipal houses	33
4.2.5. Transit camps	34
4.2.6. Exchanges and transfers	35
4.2.7. Sale of municipal dwellings and erven	Error! Bookmark not defined.
4.2.8. Rent collection	37
4.2.9. Deposit	37
4.2.10. Writing off rent	37
4.2.11. Repairs	37
4.3. WAITING LIST	38
4.4. INCORPORATION OF WAITING LISTS	40
4.5. TERM UNITS	40
4.6. UNAUTHORISED STRUCTURES ON MUNICIPAL LAND	40
4.7 ILLEGAL OCCUPATION OF MUNICIPAL DWELLINGS	42
4.8 EMERGENCY ACCOMMODATION IN CASES OF DISASTER	43
ENDNOTES	48
ANNEXURE 1: AMENDMENTS TO HOUSING POLICY FOR THE MUNICIPALITY OF DRAKENSTEIN (2010)	
ANNEXURE 2: CHANGES TO HOUSING POLICY AS APPROVED BY COUNCIL	

1. DEFINITIONS

Accounting officer: the Municipal Manager appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and being the head of administration and accounting officer in terms of section 60 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000);

Building or structure: includes any hut, shack, tent or similar structure or any other form of temporary or permanent dwelling or shelter;

Consent: means the express or tacit consent, whether in writing or otherwise, of the owner or person in charge to the occupation by the occupier of the land in question.

Emergency Housing Circumstances: refers to people who find themselves without shelter due to circumstances beyond their control;

Emergency Housing: refers to temporary or non-permanent shelter solutions, falling short of formal housing options;

Evict: means to deprive a person of occupation of a building or structure, or the land on which such a building or structure is erected, against his or her will, through the medium of the courts;

Owner: a registered owner of land and includes an organ of state;

Person in charge: a person who is appointed, or at the relevant time, has the legal delegated authority, to grant permission to enter or reside upon the relevant land;

Rural dwellers: refers to people living outside of existing informal or formal settlements, mostly on farms. They include farmworkers and people who are not employed on farms or commercial enterprises.

Unlawful occupier: a person/s who occupy land or a structure without the express or tacit consent of the owner or person-in-charge, or without any other right in law, to occupy such a land;

1. INTRODUCTION

The Housing Policy for the Drakenstein Municipality is founded on the policy frameworks of the National and Provincial Governments. One of the main objectives of this policy is to also ensure efficient and effective inter-departmental relations concerning Housing Administration and Housing Projects in Drakenstein Municipality.

The Housing White Paper, published in 1994, defines the roles of the different actors and the direction they should follow, in achieving the National Housing vision. With the promulgation of the Housing Act 1997 (Act No. 107 of 1997) the legislative framework for the housing policy was established. This Act is the supreme housing law in the land, repealing all other housing legislation that came before it.

In September 2004, the National Minister of Human Settlements also launched 'Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements' (BNG). The plan was aimed at redressing previous spatial planning and development concepts through the delivery of socially, economically and spatially integrated housing.

The publication of the Revised Housing Code, in 2009, clearly set out the overall vision for housing in South Africa. The Housing Code was not a new statement of policy, but a confirmation of the existing policy. It is the home for all National Housing Policies and Programs and identifies opportunities for creativity in housing delivery, giving resources and new approaches.

The Housing Policy is intended to be streamlined, transparent and equitable for all in the Drakenstein Municipality. The fundamentals contained in the Policy are:

- a) The latent energy as a resource, of the people of Drakenstein Municipality;
- b) The focus on creating partnerships between the various spheres of government, the private sector and communities;
- c) That the quality and affordability of the housing delivered, is of central importance;
- d) The focus being on creating a wholesome living environment conducive to attracting private investment.

The legislation and policies that need to be considered with the implementation of a Housing Policy includes:

- a) The Constitution of the Republic of South Africa, Act 108/1996;
- b) National Environmental Management Act (NEMA), Act 107/1998;
- c) Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE) Act 19 of 1998;
- d) Environment Conservation Act (ECA), Act 73/1989 (Regulations);
- e) The less Formal Township Establishment Act (LFTE), Act 113/1991 amended by Proclamation R159 of 1994 / Development Facilitation Act, no 67 of 1995;

- f) Housing Act, Act 107/1997 plus the Housing Amendment Act, Act 4/2001;
- g) Extension of Security of Tenure Act, Act 62/1997 (ESTA) see 11.13.1.4;
- h) Western Cape Planning and Development Act, Act 7/1999;
- i) Land Use Act (6 April 2002) National Legislation;
- j) Housing Consumers Protection Measures Act, No. 95 of 1998;
- k) Rental Housing Act, No. 50 of 1999;
- l) Home Loan Mortgage Disclosure Act, No. 63 of 2000;
- m) Public Finance Management Act, No. 1 of 1999;
- n) Division of Revenue Act;
- o) Housing White Paper (December 1994);
- p) National Housing Code.

2. GUIDING PRINCIPLES

The following principles are a guide in the formulation and implementation of this Policy:

- a) **Fairness and equity:** Housing development promotes equal access to opportunities as well as promote equity in respect of race, gender, religion and creed;
- b) **Integration:** Integrating social, economic, institutional, physical and environmental issues in the development of sustainable human settlements whilst ensuring that new developments lead to the integration of urban and rural areas in support of each other;
- c) **Affordability:** Residential development shall be economically, fiscally, socially and financially affordable and sustainable;
- d) **Community participation:** Ensuring that affected communities actively participate in the development process;
- e) **Empowerment:** Ensuring that development incorporate capacity building programmes that promote the utilization of local skills and resources as well as the participation of previously disadvantaged communities;
- f) **Habitability:** Only suitable land should be considered for housing development;
- g) **Innovation and choice:** Promoting innovating responses that increase the availability of choice and variety;
- h) **Sustainability:** Promotion of the establishment of socially and economically viable communities and safe and healthy conditions while ensuring that residential development do not impact adversely on the environment;
- i) **Densification:** Higher densities shall be encouraged to ensure the economical utilization of land and services;
- j) **Quality:** New housing developments must comply with the minimum quality standards.

3. HOUSING DEVELOPMENT POLICY

3.1 NATIONAL HOUSING VISION

Housing is defined as “a variety of processes through which habitable, stable and sustainable public and private residential environments are created for viable households and communities”.

The South African Constitution, 1996 enshrines the right of everyone to have access to adequate housing and makes it incumbent upon the State to take reasonable legislative and other measures within its available resources to achieve the progressive realization of this right. Hence, all South Africans should have access on a progressive basis to:

- 3.1.1 A permanent residential structure with secure tenure, ensuring privacy and providing adequate protection against the elements, and
- 3.1.2. Potable water, adequate sanitary facilities including waste disposal and domestic electricity supply”.

The National Housing Code, 2009 sets the underlying policy principles, guidelines and norms and standards which apply to Government’s various housing assistance programmes introduced since 1994 and updated.

The National Housing Policy provides the following programmes (urban-related):

- a) **Integrated Residential Development Programme (IRDP):** Provides for the acquisition of land, servicing of stands for a variety of land uses and housing to facilitate the development of integrated human settlements in well-located areas that provide convenient access to urban amenities, including places of employment;
- b) **Informal Settlement Upgrading Programme (UISP):** Seeks to upgrade the living conditions by providing secure tenure and access to basic services and housing;
- c) **Provision of social and economic facilities:** To fund primary social and economic amenities;
- d) **Housing assistance in emergency circumstances:** To provide temporary housing relief to households in cases of disasters and evictions;
- e) **Social Housing Programme:** Aims at developing affordable rental stock for the FLISP category households who do not qualify for the normal subsidies;
- f) **Institutional Housing Subsidy Programme:** Provide capital grants to social housing institutions who construct and manage affordable rental units. The Programme also provides for the sale of units by the social housing institution after at least four (4) years have lapsed;
- g) **Community Residential Units Programme (CRU):** That aims to facilitate the provision of secure, stable rental tenure for lower income persons/households through the upgrading of government owned communal rental accommodation (hostels) and construction of new stock;

- h) **Individual Subsidy Programme:** Provides access to state assistance where qualifying households wish to acquire an existing house or a vacant serviced residential stand, linked to a house construction contract through an approved mortgage loan — thus encouraging growth of the secondary residential property market;
- i) **Consolidation Subsidy Programme:** Enabling households that received serviced sites in terms of state housing schemes instituted pre-1994, to construct or complete a house;
- j) **Enhanced Extended Discount Benefit Scheme (EEDBS):** To stimulate and facilitate the transfer of public housing stock to qualifying occupants;
- k) **Enhanced People's Housing Process:** a housing support programme that assists households who wish to enhance their houses by actively contributing towards the building of their own homes.

3.2 WESTERN CAPE PROVINCIAL HOUSING ACT NO.6 of 1999.

This Act is to effect, promote and make provision for housing in the Province and for the performance of related functions and to provide for matters concerned therewith.

The National Housing Act and Western Cape Provincial Housing Law stipulate that every inhabitant of Drakenstein should be properly housed. However, housing should be:

- 3.2.1 **Affordable:** Accessible to each inhabitant by virtue of his/her income or some or other subsidy scheme available;
- 3.2.2 **Sustainable:** Affordable over time, pre-supposing a steady adequate income and/or continuous access to subsidy monies. Because housing is and has always been a "filtering process" governed by people's affordability level, the stated minimum requirements, as defined in paragraphs 3.1.1 and 3.1.2, have a cost implication. This also defines the bottom step of the housing ladder. Therefore, a local housing policy should primarily be based on two approaches, namely:
 - a) Provide "affordable" housing;
 - b) Provide the economic climate for the labour force to be gainfully employed.

3.3 ROLES AND FUNCTIONS

3.3.1 National Government

National Government is responsible for National Housing Policy. The primary function of National Government is to establish and facilitate a sustainable housing development process after consultation with every Provincial Housing MEC and the national organisation representing municipalities, viz. the South African Local Government Association (SALGA).

To achieve this, National Government is required to:

- a) Develop a National Housing Policy;
- b) Prepare and maintain a multi-year national plan, that sets broad national housing delivery and budgetary goals;
- c) Establish a funding framework for housing development, negotiate and secure an allocation from the state budget for housing. Allocate funds from the budget to Provincial Governments, municipalities and other national institutions so that national programmes can be implemented;
- d) Monitor the performance of the National and Provincial governments and municipalities with reference to the delivery goals and funding allocations;
- e) Assist Provincial Governments and municipalities to develop their administrative capacity in respect of housing developments;
- f) Promote consultation on matters regarding housing development within government and between government and all other stakeholders;
- g) Develop national norms and standards;
- h) Develop a National Housing Code.
- i) Facilitate the formation of a South African Housing Development Board;
- l) Compile and maintain a national Housing Data Bank and Information System;
- k) Phase out housing subsidies instituted in terms of previous housing legislation.

3.3.2 Provincial Government

The Provincial Government can legislate in respect of housing matters that fall within its provincial boundaries, as long as such legislation does not undermine national legislation.

The primary role of the Provincial Government is to promote and facilitate the provision of adequate housing in its area of responsibility, within the framework of the National Housing Policy. To achieve this, the functions of the Provincial Government are to:

- a) Develop the Provincial Housing Policy and associated legislation;
- b) Co-ordinate housing development in the Province;
- c) Prepare and maintain a multi-year plan detailing the implementation in the Province of National and Provincial housing programmes;
- d) Support and strengthen the capacity of municipalities in respect of housing developments;
- e) When a municipality cannot, or does not, perform its duties in terms of the Housing Act, to take appropriate steps to ensure that such duties are performed;
- f) To assess applications received from municipalities to be accredited to administer the National Housing programmes and to monitor the performance of accredited municipalities;
- g) To report to the Provincial Legislature annually on the activities of the Provincial Human Settlement Department and the accreditation of municipalities.

The Western Cape Sustainable Human Settlement Strategy (WCSHSS) (also called Isidima) is the first step towards the development of a set of fully-fledged strategy and implementation plans for "sustainable human settlements" in the Western Cape.

To achieve the goal of serving as a roadmap to dignified communities, the WCSHSS has set out to achieve the following objectives:

Objective 1: Citizens of the Western Cape who live in a variety of different situations are aware of — and can easily access — a wide range of housing services and instruments that can assist them to participate in the development of a sustainable human settlement of their choice;

Objective 2: Through the Integrated Governmental Relations (IGR) framework, all intergovernmental policies, plans and budgets that are related to human settlement development are aligned horizontally and vertically;

Objective 3: Sustained municipal capacity building for delivery, including accreditation over time of those municipalities that have developed the capacity to carry out their housing mandate effectively and efficiently in accordance with the Breaking New Ground policy and the PGWC's various policy frameworks;

Objective 4: A functioning property market across both first and second economies and an enabling environment for agents and institutions who want to design and implement sustainable human settlements in accordance with the WCSHSS approach;

Objective 5: The institutional arrangements and capabilities of the DLG&H and (where necessary) those of other provincial departments involved in implementation are developed to effectively design and implement the new WCSHSS;

Objective 6: State land and other resources are used for spatial restructuring, with direct and indirect benefits for the poor;

Objective 7: A new pact is consolidated between government and organised civil society to build up over time the trust, reciprocity and development practices required to imagine, design and implement vibrant sustainable neighbourhoods;

Objective 8: The Western Cape's towns and cities become global leaders in sustainable resource use by making sure that all new buildings, infrastructure and open spaces are planned in accordance with ecological design principles, and that owners of existing buildings (in particular public sector owners) respond to incentives to retrofit their buildings in accordance with these principles.

3.3.3 Drakenstein Municipality

The primary role of the Municipality is to take all reasonable and necessary steps within the framework of the National and Provincial legislations and policies to ensure that the inhabitants within its jurisdiction have access to adequate housing on a progressive basis. To achieve this, the functions of the Municipality are:

- To initiate, plan, co-ordinate and facilitate appropriate housing development within its boundaries. This can be undertaken either by promoting developers to undertake projects or by the Municipality itself undertaking the role of developer;
- Prepare a local housing strategy and set housing delivery goals;
- Set aside, plan and manage land for housing developments;
- Create a financial and socially viable environment conducive to housing development;
- Facilitate the resolution of conflicts;
- Provide bulk engineering services;
- Administer any National Housing Programme in respect of its area of jurisdiction if accredited to do so;
- Expropriate land for housing development if the land cannot be acquired through other means. In this regard the permission of the MEC for Housing must be obtained and the expropriation must occur in terms of the requirements set down in the Expropriation Act, 1975 [Act No. 63 of 1975].

3.4 HOUSING SUBSIDY GUIDELINES FOR APPLICATIONS BY THE NATIONAL AND REGIONAL HOUSING BOARDS (For home ownership and rental subsidy applications)

3.4.1. National Housing Goal

To establish a sustainable housing process which enables all people to secure housing with secure tenure within a safe and healthy environment and in viable communities, in a manner that makes a positive contribution to a non-racial, non-sexist, democratic and integrated society, within the shortest possible time frame.

3.4.2. Basic Points of Departure

Any new housing policy and strategy to be addressed in or pursuant to a National Housing accord, should create an environment conducive to achieving the abovementioned housing goal and be structured in a way that:

- 3.4.2.1. Is economically, fiscally, socially and financially **sustainable**;
- 3.4.2.2. Recognises and reinforces the wider **economic impact and benefits** derived from effective and adequate housing provision in the domestic economy;
- 3.4.2.3. Ensures security of **tenure** and provides for the widest feasible range tenure options, whether individually or collectively;
- 3.4.2.4. Maximises the freedom of the individual to exercise **choice** in the satisfaction of his/her housing needs;
- 3.4.2.5. Provides access for all people to as many **housing options and opportunities** as is affordable and sustainable;
- 3.4.2.6. Facilitates **co-ordination** between various sectors so as to minimise conflict over demands on scarce resource;
- 3.4.2.7. Generates broad-based **support** and involvement on the part of all key actors in order to maximise the mobilisation of resources;
- 3.4.2.8. Maximises social and economic benefits to the **local community**;
- 3.4.2.9. Effectively balances the need for increased **housing delivery** so as to achieve short term impact and the requirement that approaches adopted, must be broadly supported and capable of being sustained, in at least the medium term;
- 3.4.2.10. Promotes the establishment and development of socially and economically viable

communities, with particular focus on members of historically and other disadvantaged communities. In particular, however, the most critical need is to ensure, through State intervention, **affordable access** for the poor to a minimum acceptable standard of housing and necessary services, within the context of both fiscal and other resource constraints;

- 3.4.2.11. Promotes the process of social, economic and physical **integration** in urban and rural areas;
- 3.4.2.12. Establishes and ensures equity, transparency and accountability by the public sector in its **administration of housing**. It is imperative that the housing sector is led and supported by a single national policy and administration, which is accountable in a tangible and measurable manner, to achieve broadly based targets, which are property quantified, through the applicable governmental structures at central, regional and municipal levels;
- 3.4.2.13. Maximises the involvement of the community and leads to **transfer of skills to and empowerment** of the community, to ensure higher levels of appropriateness and acceptability of such projects as well as the development of skills and capacities within these communities to pursue other development objectives;
- 3.4.2.14. Creates an environment in which all role players meet their respective **obligations**
- 3.4.2.15. Leads to the effective **State intervention** and maximises sustained non-state involvements in housing provision;
- 3.4.2.16. Upholds the principles of **vertical and horizontal equity** in respect of the subsidisation of end users. This implies that only people in real need of subsidisation should benefit (vertical equity), while comparable value must be received by beneficiaries with the same eligibility profiles (horizontal equity);
- 3.4.2.17. Deals sensitively and responsibly with the impact of housing development upon the **environment**;
- 3.4.2.18. Stimulates the effective functioning of a sustainable **housing market** with vigorous and open competition between suppliers of goods and service;
- 3.4.2.19. Ensures that housing is **dealt with** on a basis which is non-sexist, not discriminatory in terms of religious conviction or race, nor party political;
- 3.4.2.20. Procures **political commitment** to sustain ability of the housing process.

3.5 STRATEGIC INFORMANTS

The following are priority issues with regard to housing delivery within the Drakenstein Municipality:

- a) The highest need for affordable housing within the municipal area is concentrated in the Mbekweni area and to the east of Paarl;
- b) The Municipality mostly relies on subsidies to finance housing and use contractors/implementation agents or People's Housing Process to deliver housing;
- c) The housing provided to date is mostly in the form of single units on plots and individual title;
- d) A comprehensive information database and information management system is being compiled which includes information regarding preferences for housing types and tenure options, spatial mapping of demand as per waiting lists for current and future planned projects;
- e) There are significant institutional and funding constraints with regard to housing delivery;

- f) Compilation of a housing programme that integrates and aligns the relevant projects of the various departments that allows for land acquisition, appropriate planning and design for sustainable settlements and statutory processes which would meet the planning and environmental legislative requirements;
- g) An overall monitoring and evaluation framework is required through a Project Management Unit (PMU).

3.6 STRATEGIC DIRECTIVES

3.6.1. For future policy formulation

The Housing Policy must be amended over time as conditions and legislation changes. This is to ensure that an element that underpins present-day, and future, society, i.e. political, social, economic, built and environmental, informs policy formulation and revisions. Hence, critical components which serve as quantifiable outcomes of this policy should, *inter alia*, include the following:

- a) Property market variables and property value;
- b) Legal framework;
- c) Environmental and design criteria;
- d) Housing targets, ratios and typologies;
- e) Land-release benchmarks and prioritisation;
- f) Land swapping and acquisition;
- g) Stakeholder interaction;
- h) Tenure arrangements.

The shortage of rental stock can partly be addressed through the implementation of Provincial guidelines regarding inclusionary housing such as Social Housing. To ensure that this becomes a reality, Drakenstein need to be declared as a restructuring zone (special funding is made available for the development of social housing if an area is declared as a restructuring zone). A National process is currently underway to decide if Drakenstein will become a restructuring zone).

3.6.2. For design of administrative function

The following policies are particularly relevant to the Drakenstein Municipality:ⁱ

- a) Establishing a **hierarchy of settlements** and providing housing in line with the settlement hierarchy of the Drakenstein Municipality, with housing provision being focussed in regional centres and towns within the Municipal boundaries with growth potential;
- b) **Sustainable environmental resource utilisation** for efficient and sustainable utilisation of land, use of alternative energy sources, investing in sustainable infrastructure provision and promoting public transportation;
- c) Integration policy to **redress spatial imbalances**, improve access to opportunities and enable the sharing of facilities, services and integration to be facilitated around spaces and activities that can facilitate social integration, along public transport routes in order to improve access to opportunities, services and facilities;
- d) Encouraging a **mix of housing typologies** to cater for the varied needs of beneficiaries and contribute to creating diverse urban environments and linking the development of different housing typologies to the relevant subsidies;

- e) Creating **economic opportunities** through appropriate layouts, linkages to major through routes, provision of adequate land and/or appropriate house design to allow business component in residence and increasing thresholds and diversity;
- f) **Special-needs housing** policies to ensure the provision of housing appropriate to the needs of people living with HIV/AIDS and/or child-headed households as socio-economic indicators show that HIV/AIDS prevalence is very high within the Paarl-Mbekweni area;
- g) **Emergency accommodation** to provide temporary aid and assist in the form of basic municipal engineering services and/or shelter in emergency situations to persons who are destitute and in desperate need and/or crisis situations and evictions in the case where an eviction order first be obtained from a competent court and where landowners within their means contribute towards re-settlement.

3.6.3. For integrated human settlements

Given the overwhelming goal of creating integrated sustainable human settlements, the following strategies and interventions are proposed for structuring and building more integrated and sustainable settlements:

a) Established areas

Infill and densification to bring people closer to existing opportunities:

1. Infill on vacant land;
2. Redevelopment;
3. Grant more beneficiaries the opportunity to be located nearer facilities, services and employment nodes;
4. Structured densification and mixed use development along major transport routes and private densification through subdivision and redevelopment.

b) Integration zone

1. Areas between towns and townships to facilitate established towns/growth centres and 'townships' to become integrated and, where possible, grow together;
2. Infill on vacant land and redevelopment and/or densification (extensive mixed use) along link routes.

c) Township areas

Upgrade of marginalised areas to alleviate poverty, overcome urban challenges and improve economic viability and sustainability through restructuring the physical environment:

1. Restructuring of the physical environment to improve the layout, structure and integration of townships;
2. Infill to provide choice of housing types;
3. Improve the quality of community facilities, social services and infrastructure;
4. Consolidate under-utilised community facilities
5. Cleaning and greening.

3.6.4. For regional consistency

This Housing Policy, which is operational within the Directorate: Human Settlements, needs to be informed by other sectoral plans. The following section describes key directives to be considered in formulating housing administrative policy.

Strategies for housing delivery within the Drakenstein Municipality must include:

- a) The provision of housing according to a demand-driven and supply-negotiated approach rather than the 'incumbent' supply-driven and product-uniformity approach;
- b) Promote small-scale housing developments at appropriate locations rather than large mass-scale developments (where feasible);
- c) Allocate appropriately located land for low-cost housing with sufficient scope in the vicinity for (in)formal business activities; 'appropriate locations' to be based on (SDF) spatial guidelines;
- d) Use a 'bundled' approach when considering the allocation of government resources for housing delivery with the primary informant to be a credible (IDP);
- e) Allocate Provincial Housing funds according to (CWDSDF) spatial guidelines regarding integrated human settlements and accordance with the hierarchy of towns within the Municipality;
- f) Consider the full range of housing options informed by location, typology, value bands, services infrastructure and other related items in any government-funded housing development;
- g) Promote the concept of inclusionary housing such as residential developments undertaken by the private sector above a certain threshold, which should provide approximately twenty percent (20%) or more, inclusionary housing opportunities, whether or not on a rental basis, as determined by the (PSDF) Explanatory Manual and Policy on Inclusionary Housing, and which should include land and/or financial contribution towards social costs on the same legal basis as is currently valid towards infrastructural costs.

3.6.5. For tracking the Municipality's intentions

Some indication of quantities which enable the tracking of intentions is achieved through considering pilot housing projects in the Drakenstein Municipality.

3.7 GAP MARKET: LINKING INCOME AND HOUSING PRODUCT

The housing products available can be grouped into five broad categories relating to available finance options:

- a) Government **BNG (breaking new ground/project linked) housing subsidies** for beneficiaries earning below R3 500 per month;
- b) Government **FLISP housing subsidies** for households earning between R 3 501 and R7000 per month. Beneficiaries receive a serviced plot without cost but have to obtain funding for the top structures. Funding for the top structure is subsidized on a sliding scale but to qualify will have to be linked to a bond.
- c) **FLISP housing subsidies** for households earning above R 7 001 per month, but below the minimum R 15 000 where a bank loan is required for the serviced plot and

the top structure. A subsidy is available for the top structure only based on a sliding limit dependent on the monthly income earned;

- d) **"GAP" housing** for households earning above R 15 000 per month who can qualify for a bond from a financial institution;
- e) **Emergency housing** which is provided for families earning less than R 3 500 per month and/or who are evicted from rural properties (ESTA) or from urban accommodation (PIE) both categories having received court eviction notices.

3.8 RURAL HOUSING

Introduction

Until recently Drakenstein Municipality was not involved in the provision of housing for people living in rural areas. The vast majority of such people were housed on farms in housing belonging to the land owner. However, with recent changes in legislation, a drive towards security of tenure and a shift in production methods, the need to address this housing provision has emerged.

In the labour intensive Cape Winelands (Drakenstein municipal area) the problem is related to people who live on farms or other commercial sites and are not employed on those farms/commercial sites. It is understood that this problem includes the phenomenon of a number of generations staying on in the house originally provided by the property owner and where the older generation has passed away and younger members (adult children) of the family continue to reside on these properties leading to overcrowding and associated problems. In addition invasions of the properties have taken place.

A further matter that complicates the issue is that due to historic reasons, and a lack of information, such people have not been placed on the Municipal Housing Waiting List. This would mean that many people in dire need of accommodation would now be much lower on the Waiting List for permanent housing.

Objectives

The main aim of this Housing Policy is to set out the Municipality's view on where and how such rural dwellers should be housed and the means to include them in the overall Municipal structure. Annual registration drives on farms in Drakenstein will take place between January and April each year or any time during the year that may be appropriate or suitable.

Legal and Policy Provisions

The following policies and acts have a bearing on this policy:

- a) Extension of Security of Tenure Act, Act 62 of 1997 (ESTA):
This act is intended to regulate the eviction of people who live on rural or peri-urban land;
- b) WCPG: Policy for the Settlement of Farm Workers;2000
- c) Grants from the Department of Agriculture;

d) The various housing subsidies available from National Department of Housing. Of these the FHAP and Rural subsidies are set out in more detail. Information on the more conventional subsidy instruments are provided elsewhere in this report:

1. Farm Worker and Occupier Housing Assistance Programme (FHAP):

The FHAP provides capital subsidies for the development of engineering services (where no other funding is available), and adequate houses for farm workers and occupiers in a variety of development scenarios where feasible and practical. It provides for on-farm housing as well as for collective housing solutions where such developments are feasible in an off-farm situation. The funding available under this programme may be utilised for the following:

- i) The construction of new houses on serviced stands;
- ii) The renovation/upgrading of existing services and/or housing stock;
- iii) The provision of basic local water, sanitation and storm water management systems (only as a last resort, if no alternative funding is available for this purpose).

Development may be undertaken by a farm owner, housing institution, a municipality or private developer on behalf of the beneficiaries or by the beneficiaries themselves (through a Community Driven Housing Initiative). This subsidy can only be accessed as a last resort where no other funding is available and will only apply in instances where farm residents cannot be settled in existing towns and/or through any of the other national housing programmes.

2. Rural Subsidies

The Rural Housing Subsidy is only available to beneficiaries who have functional tenure rights to the land they occupy. Functional tenure rights include customary land rights, beneficial occupation of land and rights of access, use or occupation in terms of custom.

The land, utilised for the rural housing subsidy, belongs to the State. The subsidies are only available on a project basis and beneficiaries are supported by implementing agents. Beneficiaries also have the right to decide how to use their subsidies either for service provision, house construction or a combination thereof.

3. Consolidation Subsidy

The consolidation subsidy pertains to the erection of top structures where the land has been inversed in the name of the beneficiary.

4. Individual Subsidy

An individual subsidy is granted to a beneficiary for either a serviced plot, a top structure or both.

5. Project Linked Subsidy

This type of subsidy is termed the IRDP which integrates the servicing of the plot and the erection of the top structure. This method of funding enables the Municipality or a private enterprise to act as a developer in the implementation of the development project.

6. Institutional Subsidy

The institutional subsidy can apply to the CRU (Municipal rental stock or a Social Housing Project (private institutional development). These types of funding are geared towards assisting with the provision of accommodation for people who do not qualify for a normal subsidy and are required to pay rent.

7. People's Housing Process

Subsidies are granted on an individual basis to the approved beneficiaries who then appoint a service provider in a partnership with the Provincial Department of Human Settlements. The Municipality only acts as a financial facilitator but does not manage the project. A formal agreement is required between Province and the Municipality for the Municipality to act in the position of a financial facilitator (Accounts Administrator).

8. Emergency Housing

A grant received from the Provincial Department of Human Settlements for the establishment of Temporary Relocation Areas (TRA's) (or any other appropriate usage as defined per chapter 12 of the emergency housing program) with the intent of creating access to temporary housing unit and basic services. Provision should be made for emergency housing as part of the Drakenstein Housing Pipeline and funding should be secured for this purpose on an annual basis.

The focus of housing for rural people is on providing:

- a) Security of tenure;
- b) In close proximity to, or with good access to, employment opportunities; social and community services and facilities.

Therefore, the preferred model (supported by the PGWC: Policy for the Settlement of Farm workers and the National Housing Programme for Farm Residents) of providing housing for rural people in the Drakenstein Municipality is to locate them in existing towns. In exceptional circumstances, where the short- and long-term financial, environmental and social sustainability of a project can be ensured, farm worker housing can be accommodated in agri-villages, new towns or around existing rural nodes (where feasible).

Of paramount importance is to consider:

- a) The cost of bulk services to an isolated farming residential community;
- b) The cost to the Municipality of servicing isolated pockets of inhabitants in money, staff, transport and other support functions. In most cases the establishment of isolated settlements can become unaffordable.

The preferred tenure options include:

- a) Individual ownership (especially in existing towns), and
- b) Leasehold (agri-village/ on farm).

Preliminary investigations have indicated that a certain percentage of beneficiaries are likely to require access to small-scale farming units in addition to housing. There are two potential options for the provision of housing and small-scale farming opportunities:

- a) Small-scale farming lot attached to housing unit;
- b) Access to a small-scale farming unit in close proximity, but not attached), to housing opportunities.

On-farm options for farm workers

In this scenario the farm owner is prepared to provide housing opportunities on his/her land for his/her employees. In this case the following options are available under the National Housing Programme for Farm Residents:

- a) A project based development for the provision of basic services (only as a last resort option) and the construction of new houses or upgrading of existing houses with a rental tenure;
- b) The awarding of long-term secure tenure rights to a housing institution which rights must be registered against the title deed of the farm, for the provision of rental housing only.

The WCPG: Policy for the Settlement of Farm workers proposes two additional mechanisms to facilitate on-farm settlement:

- a) A formal housing contract between farmer and farm worker exists;
- b) Defining the monetary value of the housing benefit component of a farm worker's remuneration or wage/salary package. This could enable the farm worker to utilise this portion of his/her salary to access housing in an alternative (off farm) location.

Minimum standards of farm worker housing will apply in all instances. The following should also be noted:

1. Right of Residence

Right of residence in terms of the Extension of Security of Tenure Act (Act 62 of 1997), section 6(1)

"Subject to the provisions of this act, an occupier shall have the right to reside on and use the land on which he or she resided and which he or she used on or after 4 February 1997, and to have access to such services as have been agreed upon with the owner or person in charge, whether expressly or tacitly."

2. Subdivision of the Farm Unit

The policy suggests the option of subdividing a farm unit to facilitate ownership. The subdivision should:

- a). Be in the interests of the farmer and farm worker;
- b). Be cost effective and feasible (in terms of access, housing and services);
- c). Maintain the integrity of the agricultural unit (i.e. avoid urbanisation of rural areas);
- d). Encourage the conversion and upgrading of hostels.

The Subdivision of Agricultural Land Act 70 of 70 may prove to be a restrictive factor in subdividing farming units.

3. Provision for Retirement

Section 8(4) of ESTA (see Addendum A) legally secures the right of residence of an occupier/farm worker who has resided on the farm or any other land belonging to the owner for 10 years and;

- a) Has reached the age of 60 years;*
- b) Is an employee, or former employee, of the owner or person in charge, and as a result of ill health, injury or disability is unable to supply labour to the owner or person in charge.*

4. Off-farm options

The following options are available under the National Housing Programme for Farm Residents:

Off-farm development in ownership of the beneficiaries by farm owner, the Municipality or by the beneficiaries themselves. In this scenario the farm owner is prepared to sub-divide his/her land in small agricultural holdings, where prevailing legislation allows for such subdivision, and transfer these portions to individual farm residents. In this case the following options will be available:

- a).A project-based development to enable the farmer to act as developer for the provision of basic services and the construction of new houses or the upgrading of existing structures;
- b).The qualifying individual beneficiaries may request the municipality to act as developer or they may appoint a private-sector developer on their behalf;
- c).The beneficiaries can establish a legal entity and undertake their housing development themselves through a Community Driven Housing Initiative as provided for in the relevant National Housing Programme.

Off-farm developments, where the beneficiaries received individual farm land in ownership through the Land Reform programme of the Department of Land Affairs, as contemplated by the Land Reform (Labour Tenants) Act, 1996. This land reform programme provides labour tenant beneficiaries access to productive land but will not provide residential engineering services and housing opportunities. This housing programme may therefore be applied to provide access to funding for residential engineering services as a last resort and housing opportunities for beneficiaries of the Labour Tenant Strategy.

The WCPG: Policy for the Settlement of Farm workers proposes various forms of off-farm settlement in an existing town, in an agri-village and in exceptional cases in a new town.

5. In an existing town

This is the preferred off-farm option for the location of housing for rural people. The other two options (agri-village and new town) will only be considered in exceptional circumstances, and when the long-term sustainability and viability of the development can be proven. The benefits of locating housing for rural people in existing towns include:

- a). Existing engineering services limit the construction costs of engineering services;
- b). Access to a wider variety of social and community facilities;
- c). Existing social and community services limits duplication, construction and maintenance costs of facilities;
- d). Better market value for urban as opposed to farm dwellings (PG:WC, 2000);
- e). Access to a wider variety of employment opportunities, should the beneficiary or beneficiary's dependants chose not to work on a farm.

Challenges posed may be:

- a) Prioritising rural people on the housing waiting list;
- b) Providing opportunities for small-scale farming;
- c) Reliable transport to employment in rural areas;
- d) Lack of land and use of agricultural land.
- e) Social challenges of adjusting to the urban setting;

6. Agri-village

An agri-village is *"a private settlement of restricted size established and managed by a legal institution that is situated within an agricultural area and where residence is restricted to bona fide farm workers and their dependants of the farms involved in the development. Security of tenure does not include right of ownership, but can include a Trust, Communal Property Association or Sectional Title. The development of agri-villages represents a partnership between farmer, farm worker and state"* (PG: WC, 2000).

The WCPG: Policy for the Settlement of Farmworkers specifies four instances where the development of an agri-village may be considered:

- a) *"in a farming area that has a substantial demand for "off the farm" settlement, no established settlements within practical commuting distance, and a municipality that has no feasible means of establishing and managing a new public town / settlement;*

- b) where the owners and workforce of a company farm, or a group of neighbouring farms, identify sufficient demand and the capacity for the establishment of a centrally located settlement where housing and communal facilities and services can be cost-effectively provided to the local farm worker community;*
- c) where there are substantial numbers of farm workers in an area who choose to retire "off the farm", but do not aspire to an urban retirement and prefer living in their familiar rural environment; and*
- d) where the type of product cultivated or nature of farming activities (e.g. pest control) precludes "on the farm" housing"*

In addition, the tenure options available to beneficiaries of an agri-village are limited to lease or notarial deed of servitude.

Problems associated with the development of new agri-villages:

- a). No ownership tenure option;
- b). Unsustainable agri-villages have the potential to lock people into poverty through limiting access to social and economic opportunities;
- c). Segregation by design: By allowing only farm workers to reside in agri-villages, no provision is made for a diversity of income groups, creating pockets of poverty;
- d). Increased bulk services costs (development of new waste water treatment plants/ long runs to get services to remote locations);
- e). Potential to "lock" people in a space. Rural transport is currently unreliable and inefficient. People may choose to live in a particular location to access work opportunities, however, when they leave their work, they are essentially locked in places where there are limited alternative economic opportunities;
- f). Duplication of services - construction cost and maintenance;
- g). Poor access to a range of services and facilities;
- h). Perpetuation of sprawl;
- i). Mono functional/ mono-income developments.

7. New town

The establishment of a "new town" can be considered in exceptional circumstances. However, a new settlement will face many of the same issues and challenges that an agri-village does.

Problems associated with the development of new towns are:

- a). Unsustainable new towns have the potential to lock people into poverty through limiting access to social and economic opportunities;
- b). Segregation by design: If a new town is developed to accommodate only farm workers, integration of income groups is unlikely, creating pockets of poverty;
- c). Increased bulk services costs (development of new waste water treatment plants/ long runs to get services to remote locations);
- d). Potential to "lock" people in space. People may choose to live in a particular location to access work opportunities, however, when they leave their work, they are essentially locked in places where there are limited alternative economic opportunities as rural transport is currently unreliable and inefficient, making it difficult to access services and facilities in towns;

- e). Duplication of services - construction cost and maintenance;
- f). Poor access to a range of services and facilities;
- g). Perpetuation of sprawl;
- h). Mono functional and mono-income developments.

Role of the Municipality

The Municipality can assist with the following aspects of providing housing for rural dwellers:

- a) Assist the Department of Rural Development and Land Reform (DRDLR) and other departments in ascertaining the need for housing for rural people in terms of the various models available (in existing towns, on-farm, off-farm settlements);
- b) Ensure that rural people are included in the Municipal Housing Waiting List. In this regard the Municipality has targeted rural people as part of the Housing Selection policy. On all new greenfields developments twenty percent (20%) of the beneficiaries are drawn from the rural community;
- c) Identify suitable land and ensure that such land is indicated clearly in the SDF to avoid conflict when competing needs for land arises;
- d) Facilitate transfer of ownership and leasehold, where applicable;
- e) Enter into negotiations with DRDLR on acquiring land, where needed;
- f) Provide basic services and/or enter into negotiated service delivery agreements where housing is situated on private property;
- g) Provide support services that form part of Municipal powers and functions with which to access to social and economic opportunities and public transport;
- h) Ensure that the provision of building management support services (assessment of building plans, building inspections) is extended to rural areas (on-farm and off-farm settlement scenarios);
- i) Ensure that the above is captured and budgeted for in the IDP (include the development of rural settlement plans as a component of the IDP Housing Sector Plans);
- j) The verification of certain housing subsidy applications, specifically for the institutional subsidy where it is applied to on-farm development;
- k) Fulfil the role of developer, depending on the programme, subsidy and nature of the project.

3.9 LAND INVASION AND SQUATTER CONTROLⁱⁱ

This section must be read together with **4.6** and **4.2.5** of this Housing Policy document. In the event of any inconsistency regarding this section and the administrative procedures described in **4.6** or **4.2.5**, the latter will prevail.

The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (Act No. 19 of 1998) commonly known as PIE provides for the prohibition of unlawful eviction as well as procedures for the eviction of unlawful occupiers. The Municipality promotes a **policy which guides the Municipality in the control of the illegal land and building occupation** within its area of jurisdiction. The HOD of Human Settlements in the Municipality is the custodian of Municipal housing projects and rental stock and is responsible for the implementation of the squatter control policy which regulates the settlement and occupation of all Municipal land).

3.9.1 Legal Provisions

It is unconstitutional to evict anybody or to demolish any dwelling without due process to the courts (except where illegal structures are still in process of construction). The Constitution and the Prevention of Illegal Eviction from an Unlawful Occupation of Land Act (Act 19 of 1998) makes provision for a court order to be issued prior to eviction.

3.9.2 Objectives

The purpose of this Policy is to:

- a) Prescribe procedures for the management of municipal assets;
- b) Prescribe procedures for the management of private assets.

Status Quo/Problem Statement

Land invasion refers to the illegal occupation of land with the intention of erecting dwellings or establishing a settlement on it. Illegal land invasion can be a problem for a number of reasons:

- a) The land is allocated to another use (e.g. education, commercial) but hasn't been taken up yet;
- b) The land is allocated to another group of beneficiaries;
- c) The land is high risk (e.g. flooding);
- d) The land may be of environmental significance;
- e) The land may be poorly located;
- f) The land is a public open space;
- g) The areas next to municipal flats and dwellings.

In addition, the unlawful occupation of land is a threat to ownership and good governance.

Approach

As soon as the invasion is discovered the owner of the land must be identified.

- a) Non-municipal-owned land: The owner must be notified;
- b) Municipal-owned land: Urgent action must be taken, as indicated below.

Preventative Measures

It is essential to take proactive measures to discourage illegal land invasion. These measures include:

- a) Fencing and monitoring of properties;
- b) Lighting and signage;
- c) Instilling a sense of ownership in the surrounding community such as explaining the future use of the land.

Repressive Control Measures

Removal despite resistance, with the intervention usually having an impact on the affected people's livelihoods:

- a) That an illegal structure/s is removed immediately whilst it is in the process of being erected on land that belongs to the Municipality;
- b) That the material be stored in Municipality stores for a period of seven (7) days in which the owner must claim it, failure thereof the material will be sold to recover the storage and demolition fees or alternatively be donated to families in need;
- c) That a security firm is employed to monitor the situation in instances where there appears to be resistance or potential unrest due to the removal;

Deterministic Methods of Control

Rigid prescription of a 'good' solution to the problems of the poor, usually with little reference to the affected people's livelihoods and socio-economic reality:

- a) That the illegal occupier/s be informed in writing to voluntarily demolish the structure that has been erected on Municipal land within 48 (forty eight) hours of a notice officially being served by Housing Administration and Law Enforcement clearly stating the recipient and time of serving the notice and the recipient signing acceptance of the notice;
- b) In the event of non-compliance with the 48-hour notice, the normal court processes as espoused in the PIE Act will be followed;
- c) That a meeting be held with the affected families in which the repercussion of their action (land invasion) is explained to them as well as the plans in place to deal with the housing needs.
- d) The Standard Operating Procedures (SOP) in terms of Illegal Structures are as follows:
 - Housing Administration(HA) and Law Enforcement (LE) serve a notice to the occupier of the illegal structure owner (ISO) acknowledging that the structure is illegally being erected and the 48 hour notice period is relevant for the illegal structure owner to voluntarily demolish the structure;
 - HA and LE provide proof of such structure in the form of a photograph and accompanying report;
 - Upon receipt of the complaint immediate action takes place and the Ward Councillor be informed of the complaint by HA;
 - Reaction period be monitored by the Ward Councillor and PR Councillor and report in writing be provided to the Portfolio Holder: Housing and Human Settlements.

Transitional Method of Control

Affording temporary occupational rights in the informal settlement or a transit camp, with a view to future orderly relocation – often with little consideration of the impact of uncertainty on people's fragile livelihoods:

- a) That the Municipality after considering all facts of the matter will in its limited resources arrange for temporary settlement in a transit or related settlement;
- b) That the Municipality is to arrange for the affected families be registered on the waiting list system.

Procedures

The Municipality will be guided by the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, Act 19 of 1998 (PIE).

Administrative Control Measures

- a) The Municipal Manager, as the accounting officer, is responsible for the management, including safeguarding and maintenance of all assets of the Municipality in an economic, efficient and effective manner;
- b) The Municipal Manager may delegate the responsibilities placed on him/her to any official directly accountable to him/her.

3.10 LAND SWOP AND ACQUISITION

The lack of well-located publicly owned land is often a major stumbling block in achieving the vision of integrated human settlements. Land swaps or the acquisition of land not under the control of the Municipality could provide excellent opportunities for infill development, in particular. This Policy provides broad guidelines on the steps and issues to be considered when embarking on this process.

Objectives

The main aim of this Policy is to provide clear guidelines on how the Municipality should approach the issue of acquiring land for use in realising integrated human settlements.

Legal Provisions

The following acts and regulations impact on the swap or acquisition of land:

The Municipal Finance Management Act (Act 56 of 2003) (MFMA) Sections 14 and 15 in particular is relevant in this regard.

Disposal of capital assets must consider:

- a) The Municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services;
- b) The Municipality may transfer ownership, or otherwise dispose of a capital asset other than one contemplated, but only after the Municipal Council, in a meeting open to the public, has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
- c) It has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset;
- d) A decision by a Municipal Council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the Municipality after that asset has been sold, transferred or otherwise disposed of;
- e) The Municipal Council may delegate to the Municipal Manager (accounting officer) of the Municipality its power to make the determinations referred to in subsection (2)(a) and (b) in respect of movable capital assets below a value determined by the Council;
- f) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111;

- g) That this section does not apply to the transfer of a capital asset to another Municipality or to a municipal entity or to a National or Provincial organ of State in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework.

Note: Section 90 of the Act repeats the above provisions verbatim.

Appropriation of funds for expenditure indicates:

- a) The Municipality may, except where otherwise provided in this Act, incur expenditure only in terms of an approved budget; and within the limits of the amounts appropriated for the different votes in an approved budget.
- b) The Municipal Asset Transfer Regulations (promulgated in terms of the MFMA) – No. 878:
- c) The regulations in terms of the Public Finance Management Act, 1999: Framework for Supply Chain Management – No. 1734.

Is it noted that the MFMA is not particularly accommodating with regard to land swaps, and it is thus recommended that expert legal advice be sought on the correct procedures to be followed when considering such a transaction.

Steps related to land swap and acquisition

Identify suitable vacant or under-utilised land where appropriate development would contribute to the creation of integrated sustainable human settlements. In the identification consider the following aspects:

- a) Location of the land in relation to public transport routes, the urban edge, community and economic facilities such as schools and shops;
- b) Surrounding land uses and issues of compatibility;
- c) Biophysical constraints that may have impacted on the land not being optimally developed to date;
- d) Existing approved planning policies related to the land which conforms to the SDF;
- e) Existing land use rights where a rezoning or departure would be required to accommodate the proposed development;
- f) Title deed restrictions that may impact on the development of the land;
- g) Serviceability of the land.

The Municipality should approach the landowner(s) to ascertain an interest in the sale or swap of the land.

Once the Municipality is satisfied that the identified land is suitable for the intended purpose, the landowner should be approached to ascertain his/her interest in the sale or swap of the land. The Municipality could call on landowners to express interest in the sale of their land through advertisements in the local press. The correct legal procedures must be followed at all times and that no binding agreements should be made before the correct political steps have been taken and the required public participation processes undertaken.

Should the landowner be interested in a land swap, the Municipality would have to identify public land that could be available for a land swap. The following aspects are important in this regard:

- a) Could the land be made available efficiently;
- b) Is there certainty that the land would not be needed in future for purposes in the interest of the community;
- c) Is the proposed future use of the public land acceptable to the Municipality?

All land to be acquired or swapped must be valued by an independent valuer. The valuation of land by an independent valuer is essential for the following reasons:

- a) It would be legal requirement in terms of the legislation governing the sale and acquisition of land by municipalities;
- b) It would provide the municipality with a clear idea of the affordability of land for the intended purpose.

Once it has been determined that the land to be acquired is suitable, available and affordable, the Municipality can start the process of acquiring the land in line with its Supply Chain Management procedures.

3.11 MAINTENANCE OF RENTAL UNITS

This section must be read together with **4.2.10** of this policy document. In the event of any inconsistency regarding this section and the administrative procedures described in **4.2.10**, the latter will prevail. The municipality should endeavor to maintain municipal rentals.

The municipality should maintain a safe and healthy environment for tenants and homebuyers residing in the Municipal housing developments. The intent is to provide a clear definition of the key elements of a well-run and fully integrated maintenance system through inspections, follow-up and enforcement to ensure that required maintenance obligations are upheld.

Maintaining housing units is a focal concern of the Human Settlements Department staff. Firm, consistent and fair lease enforcement is a critical element of the maintenance delivery system, having information about previous spending patterns, current needs, future concerns and long-range goals which would serve as an effective management tool. The maintenance of units will be performed in compliance with local Municipal code and quality standards. Inspections will be conducted utilizing Housing Quality Standards (HQS) to ensure the housing units comply with the minimum health and safety standards. A dedicated official should be identified with the Housing Administration Section whom will receive complaints / requests for maintenance from the Legal tenants.

Objectives

The key Maintenance Policy objectives are:

- a) Maintain units in a decent, safe and hygiene condition including related facilities and equipment;
- b) or employees and identify precautionary measures;

- c) Conduct timely inspections, regular and preventive maintenance, timely repairs and replacements to ensure the structural integrity of the development and proper functioning of all equipment.

Administrative Control Measures

Municipal Responsibility

The Municipality is responsible for maintaining its rental units by performing regular inspections, preventive maintenance and conducting all necessary repairs in a timely manner to ensure the productive and useful life of the units.

The Municipality is also responsible for the long-term planning of major renovations and modernizations. All operations will be undertaken in an efficient and prudent manner for the prompt renovation of vacant units and for proper control of manpower and materials. The Human Settlements department coordinates and maintains standards for customer service through communication and publication of its policy to rental occupants.

Responsibility of the tenant

The tenant is obligated to the terms of the lease agreement including maintaining the rental unit in good condition and appearance through proper housekeeping and ensuring the continuous service of utilities such as electricity and water. This responsibility includes the landscape/grounds of the unit, the proper care for pets, and doing their part to maintain a peaceful and enjoyable neighbourhood.

Tenants must undertake to avoid neglect or damaging assigned rental units. Tenants are responsible for all damages. If repairs are needed, the Municipality will coordinate with maintenance staff to undertake the repairs or procure a contracting firm to undertake the rectification and bill the tenant for such charges. The tenant shall be responsible for all damages to the unit and premises, including damages caused by guests or third parties.

Policy and Procedures

Preventive and Routine Maintenance Procedures

Based on the analysis of new construction and inspections of units under management, preventive and routine maintenance shall be provided to minimize the need for costly rehabilitation in the future. On an annual basis the maintenance staff will plan the service schedule for water line inspections, exterior paint monitoring and other sealed surfaces, inspecting for condensation, dampness and fungus in wood, inspecting and patching paved surfaces, weatherization items and/or corrections to the dwelling units or grounds.

The Human Settlements management will require and monitor the efficient and effective implementation of the preventive maintenance plan. Advanced planning and scheduling by the maintenance staff is essential for orderly procurement. In the stocking of materials, equipment, and supplies, maintenance staff will utilize the Municipality's Procurement Policy. The Municipality shall conduct an annual physical inventory to comply with auditing requirements. The following will be part of routine maintenance scheduling:

a) Routine maintenance items

Maintenance staff shall perform routine, recurring maintenance tasks including minor repairs and replacements that are not a result of damage caused by the tenant.

b) Landscaping and grounds maintenance

Tenants will be responsible for cleaning the surrounding grounds of their rental unit if they plant landscaping shrubs, trees or other plants and flowers. The responsibility for watering, pruning and weeding lies with the tenant. Garbage and/or other debris will not be allowed to accumulate in or around the unit.

c) Sanitation service

All rental tenants are required to dispose of rubbish in the provided tips/rubbish bins. Tenants are additionally responsible for proper bagging and discarding in the tips and bins. Burning trash and other debris in the garden is not allowed. Compliance with local environmental health regulations will be enforced.

d) Non-Routine Maintenance

This category encompasses tasks that entail major repairs and/or improvements to units or equipment or the replacement at a substantial cost to housing operations.

e) Damaged units/Emergency

If a unit is extensively damaged, through no fault of the tenant, the maintenance staff will coordinate with management to relocate the family, if necessary, and immediately schedule the unit for renovation. Such damages may occur as a result of fire, floods, wind, damage by vehicles, explosions, storms, vandalism or other uncontrollable situations. **Refer to emergency housing policy.**

Insurance claims

The Municipality will be responsible for filing all insurance claims that are covered in the insurance policy. The Municipality will insure the dwelling unit only, as tenants are responsible for securing personal property insurance. It is the responsibility of the tenant to notify the Municipality of any damage that could result in an insurance claim.

Renovations

The Municipality will maintain major renovation schedules. This may include roof repairs, replacement of floors, installation of new tubs, sink basins, plumbing fixtures, kitchen cabinet replacements, or other major work. Tenants will be provided with advance notification of any planned renovation including the possible need for temporary relocation.

Structural changes

The Municipality may change the structure of a rental unit/s if extensive work or major renovation is already planned or if it determines that the structural changes would be

beneficial to the Municipality's plan of operations, such as disabled accessibility improvements, conversion to adult foster care facility amongst others. Tenants shall not undertake any structural changes to the dwelling.

Inspections

Inspections are the foundation of any solid maintenance program. The Municipality shall have the right to inspect any rental unit upon at least forty-eight (48) hours notice to the tenant for the purpose of determining if they are fulfilling their obligations to maintain the unit.

Emergency/Unscheduled inspections

Emergency maintenance includes any maintenance task performed in response to an unanticipated defect endangering life or property. Emergency situations have the highest priority of all maintenance-related work. Typical examples might include, but are not limited to:

- a) Fires;
- b) Electrical hazards;
- c) Individual unit power failure;
- d) Water leaks or breakage of water supply lines;
- e) Sewerage problems.

In the event of an emergency, it may be necessary for Municipal maintenance staff to enter units without notice. Should this be the case, a follow-up written notice shall be attached to the front door explaining the reason for entry, a list of staff entering the apartment and a reference to this policy as authority.

Municipal staff will have the right to enter the rental unit without notice for suspected abandonment, when a utility service has been discontinued or when severe damage is evident. The Municipal maintenance staff will leave a written notice on the front door at the time any such entry is made referencing this policy. Unscheduled inspections may include coordination with Law Enforcement, Child Protective Services, Social Services, or any other agency that has obtained prior approval from the Human Settlements department for such inspection. Entry will not be made without notifying the tenant and this may be accomplished through written communication to their mailing address. If this method of contact is used, a response is not necessary required to proceed with the inspection.

Move-In inspection

Tenants must agree to regular inspections and notify the municipality of any maintenance problems that arise. Each unit must be decent, safe and sanitary before it is becomes occupied.

Charges

The Municipality will charge tenants for all work orders that are determined to be the fault of the tenant. Such charges will include the labour and cost of materials used. At the request of the tenant, estimates may be provided. Tenants will be responsible for payment of any work order determined to be their fault. Normal wear and tear of rental units will not be charged to the tenant.

4. HOUSING ADMINISTRATION

4.1. ORGANISATIONAL FRAMEWORK WITHIN WHICH THE CURRENT HOUSING POLICY IS IMPLEMENTED

4.1.1. HOUSING SUBSIDY SCHEME

The provision of housing is enshrined in the Constitution. The process and guidelines, whereby a State subsidy is made available to buyers/participants, are laid down by National Government. Communal participation in the provision of housing (social compact) plays an important role here. The composition of social compacts, or housing committees, should be the beneficiaries of housing projects. The Municipality's function in this regard, is to act as one of the role players and to see to it that the mechanisms are in place for the processes prescribed by the State.

The Municipality shall ensure that a well trained, competent, motivated, effective and efficient staff complement are supported by an appropriate outsourcing of defined activities.

4.1.2. SALE OF STATE-FINANCED HOUSING

The selling of state-financed housing and the determination of prices occurs in terms of the State's prescriptions. The funds are provided by the State and any losses at the time of sale are borne by them. In these circumstances it is entirely justified for the State to lay down strict prescriptions. Municipal subsidised dwellings can be sold at market-value prices. It is prescribed by the Municipal Ordinance.

All administrative tasks, excluding the financial matters in the sales schemes, are dealt with by the Human Settlements Department. The Human Settlements Division is specifically tasked with the **administration of municipal-owned dwellings**.

Other departments deal with the technical aspects of housing. The Municipality is constituted in such a way that different disciplines are grouped together into various departments to give effect to the principle of specialisation. This is aimed at promoting efficiency and effectiveness.

4.2. ADMINISTRATION OF HOUSING SCHEMES

4.2.1. The following powers have been delegated to the Human Settlements Department:

4.2.1.1. All matters conferred upon the Municipality in terms of housing legislation, policy and guidelines, with the exception of those matters which are subject to the approval of the National Housing Department and/or various state departments, as well as those matters reserved by the Municipality;

4.2.1.2. The allocation of Municipal housing, exchange and transfer of units, emergency cases within the Municipal housing schemes, as well as the controlling of serviced stands;

4.2.1.3. The following duties must be dealt with administratively by the Manager: Housing

Administration:

- 4.2.1.3.1. Handling of all **correspondence** regarding requests for preferential housing;
- 4.2.1.3.2. All allocations / transfers / exchanges to be reflected in the agenda of the **quarterly report** to the relevant portfolio committee;
- 4.2.1.3.3. The EM: Community Services submit a quarterly report to the relevant portfolio committee and in addition other reports to the relevant portfolio committee as requested by the relevant portfolio committee or Portfolio Holder: Housing and Human Settlements;
- 4.2.1.3.3. Controlling of stands in Temporary relocation areas;
- 4.2.1.3.4. **Transfer of dwellings:**
 - a) Between spouses in cases of mortality or divorce;
 - b) To a family member (where a mutual agreement can be reached).
- 4.2.1.3.5. **Appeals** concerning resolutions taken will only be permitted should new relevant information, which may influence the decision, be available, subject to approval by the Manager: Housing Administration;
- 4.2.1.3.7. Request from a special needs case for an exchange in the same vicinity where accommodation becomes vacant be considered and the new tenant be accommodated in the rental of the person with a special need.

It is proposed to consider an allocation ratio for categories of applicants.

4.2.2. REQUIREMENTS TO QUALIFY AS APPLICANTS FOR EXISTING MUNICIPAL DWELLINGS

- 4.2.2.1. Existing rental units are allocated in accordance with the prescriptions of the Provincial Government, which, *inter alia*, prescribes that individuals, who own immovable residential property, do not qualify to be a tenant of a Municipal rental unit. Consequently, the Municipality may cancel lease agreements on thirty (30) days written notice, should tenants become the owner of immovable property. Similarly the Municipality will be entitled to cancel any lease agreement, should it be revealed that tenants owned fixed property when a lease agreement was concluded. It should be noted that a tenant, who inherits property after he/she became the tenant of a Municipal dwelling, vacate the municipal dwelling within three months after transfer of the inherited property into his / her name.
- 4.2.2.2. The Municipality is responsible for the accommodation of qualifying families (no single persons), within its area of jurisdiction. Only applications from applicants, who reside in the Drakenstein area of jurisdiction, will be accepted;
- 4.2.2.3. Allocation in new housing schemes must be in accordance with the official Waiting List/housing demand data base as more fully described per Council Housing Allocation and Selection Policy.

4.2.3. ALLOCATION OF VACANT MUNICIPAL DWELLINGS OR SITES IN TRANSIT CAMPS

4.2.3.1. Municipal dwellings

Vacant residential units are allocated to applicants on the official Waiting List, according to date of application, taking into account the following Government prescriptions regarding the size of the family:

- 4.2.3.1.1. Two-roomed dwelling : 2 - 3 people;
- 4.2.3.1.2. Three-roomed dwelling : 4 - 5 people;
- 4.2.3.1.3. Four-roomed dwelling : 6 and more people.

It is necessary to investigate a desirable ratio between flat size and number of occupants. In cases where there are children of different sexes, above the age of ten, an additional room is allowed.

- 4.2.3.2 The Manager: Housing Administration may, in cases of emergency (such as floods or fire damages), accommodate families as a matter of priority. This is undertaken in consultation with the Portfolio Holder (Housing and Human Settlements). Such cases must be followed up with a report, stating reasons, to the HOD of Human Settlements for ratification;
- 4.2.3.3 In cases where it is known in advance that residential units are going to be vacated in the near future, such units **may not be promised** to specific applicants in advance, as this may lead to an expectancy being created;
- 4.2.3.4 Individual members of the Municipality and officials, may not approach the housing staff with requests to allocate vacant dwellings to specific applicants.

4.2.4. MUNICIPAL HOUSES (this section forms part of the Corporate Services function and be dealt with in their policy and review)

4.2.4.1 LEASE OF MUNICIPAL HOUSES TO EMPLOYEES

The **allocation of Municipal dwellings to employees** will be undertaken by the Manager: Human Settlements on the following basis:

Employees (workers excluded) are required to submit written applications, via their various departmental/section heads, to the Manager: Housing Administration and are required to comply with the following criteria:

- 4.2.4.1.1. The applicant must be employed by the council;
- 4.2.4.1.2. The applicant must be married or furnish proof that he/she cohabits with someone or have financially dependent children;
- 4.2.4.1.3 The applicant may not have other housing, or his/her own house;
- 4.2.4.1.4 Applicants who sold their private houses, on which they have received subsidies from Council, do not qualify to be placed on the waiting list;
- 4.2.4.1.5 Applicants who do not qualify for Municipal housing will be informed in writing by the Manager: Housing Administration;
- 4.2.4.1.6 The date of appointment of an applicant will determine his/her position on the Waiting List. However, employees who vacate a dwelling for whatever reason, may in future reapply, but the date of application and not the date of appointment, will determine his/her position on the Waiting List;
- 4.2.4.2 That the six (6) houses in Blake Street be reserved for employees on post level 12 and higher;
- 4.2.4.3 That the houses listed hereunder, which were purchased for future projects by the Municipality, be reserved for employees on post level 8 and higher, on a temporary basis: 471(a) and (b) Main Street and 1 and 3 Welgelegen Street;
- 4.2.4.4 The allocation of dwellings to employees in the category of post level 12 and higher shall be carried out in conjunction with the Departmental Head;
- 4.2.4.5 Should there be no qualifying applicants on the Waiting List for a specific category vacant dwelling, the relevant dwelling will be offered to an applicant

who falls within the next lower post level. Should there be no applicants available the next applicant within the lower post level category will be considered. Should there be no qualifying applicants available on the waiting list, the dwelling will be offered to a non-qualifying applicant on a temporary basis, taking into consideration his/her post level and position on the Waiting List of non-qualifying applicants. Such a Waiting List of Municipal employees is kept specifically for this purpose. That the policy, regarding the lease of Municipal houses to employees, also be applied in cases of vacant flats, earmarked for the personnel of the Fire Brigade.

- 4.2.4.6 As the flats at the Fire Brigade forms an integral part of the Fire Brigade complex, that the following criteria be accepted:
- 4.2.4.6.1 The personnel of the Fire Brigade should at all times receive preference, should it be necessary that a vacant flat has to be reallocated. Should there be no member of the Fire Brigade on the Waiting List, the Law Enforcement personnel of the Traffic Section shall considered;
 - 4.2.4.6.2 Should an officer of the Fire Brigade/ Traffic Section, who in the past received any form of subsidy from Council, i.e. rental subsidy for a privately hired dwelling or housing subsidy, the relevant officer will be liable for payment of a monthly related rental;
 - 4.2.4.6.3 All vacant Municipal houses, earmarked for workers, are reallocated to applicants according to their date of appointment, as their names appear on the Waiting List. This Waiting List incorporates all departments in the Municipality. In order to keep this Waiting List up to date, the housing need of all new appointments, must be made available to the Housing Division by the Personnel Section;
 - 4.2.4.6.4. Application forms for Municipal housing, of tenants of Municipal dwellings, reserved for Municipal employees, must be kept on the official Waiting List and when his/her turn for a dwelling in the Municipal schemes arrives, he/she will have the choice to remain as tenant or to accept the dwelling.

Former employees of the Municipality, who live in houses reserved for Municipal employees, must, in terms of the rental agreement, vacate the premises when they leave the Municipality's employment.

The allocation criteria of official housing should be part of the induction course for new employees. Lessen the possibility of contravening policy by conducting a deeds search to determine whether a beneficiary owns any other property. The municipality should also heed to the specific needs of specific groups of beneficiaries, e.g. elderly.

The sole purpose of occupation of municipal housing is residential. If any other use of the structure or part thereof is apparent, the council can take the necessary steps to reinstate the primary use as residential.

4.2.5 EMERGENCY HOUSING

Permits are issued to applicants on the Waiting List of the transit camps order of the date of application. Only people, whose names appeared on the general Waiting List, are accepted on the Waiting List for the transit camps. The applications for accommodation of permit holders will not be removed from the general Waiting List. Those not yet registered on the municipal waiting list be registered as such before accommodated and forms part of the

occupation agreement.

No structures may be sold / rented out when a permit holder leaves the area and the shelter must be removed. The capacity of the Municipality to manage, control and exercise policing, in these areas, must be increased and be more visible. Research is required to determine the method and frequency of policing transit camps.

Existing transit areas need to be evaluated in terms of feasibility, accessibility and vulnerability to amongst issues such as disaster risk. The Municipality has conducted a detailed and comprehensive audit of residential and industrial land which has identified public and private land for possible residential and industrial developments.

4.2.6. EXCHANGES AND TRANSFERS

4.2.6.1. EXCHANGES

4.2.6.1.1. Tenants who require an exchange to another dwelling must themselves, find a tenant who is prepared to exchange dwellings. Such exchanges are dealt with administratively by the Housing Administration office. Should there be no complicating factors such as co-tenants, rental arrears or maintenance to be done the exchange may be considered;

4.2.6.1.2 Applications for transfers to ground level units, due to mobility handicapped and poor eyesight are considered by the Manager: Housing Administration;

4.2.6.1.3 Consideration will be given to special needs applicants in the immediate vicinity of the vacant rental.

4.2.6.2. TRANSFERS

4.2.6.2.1. The term "family member" is defined as sons, daughters, legally adopted children, or legal foster children and parents. Grandchildren under the care of the deceased tenant, also qualifies, should he/she have no alternative parental home. The transfer of right of occupation to co-tenants, i.e. person(s) not family member(s), must be addressed. In the meantime these cases will be handled according to the stipulations in 3.2.6.2.5;

4.2.6.2.2. If a tenant should die, the spouse or common partner becomes the tenant. Transfers in the names of family members (as in 3.2.6.2.1.) are dealt with administratively, except where there is doubt about the validity of a transfer or where there is dissension amongst the family members, with the right to appeal. Such cases are referred to the HOD of Human Settlements for a decision.

On the 4th July 2000 the housing committee discussed the issue of "parental" home and felt that it is unfair to the children, when the tenant moves to another dwelling or town, to force the brothers/sisters, parents and their families to vacate the dwelling, due to the fact that they have families of their own. In such a case, the dwelling is to be transferred to one of the remaining "family members" who originally lived there and who qualify in terms of paragraph 3.2.6.2.1 (i.e. not single persons).

It is noted that the issue of adults with/without children should be more fully addressed.

- 4.2.6.2.3. In cases where the tenant dies, or gets a divorce and only one person remains behind, it is transferred to the person who remains behind;
- 4.2.6.2.4. If the tenant divorces, the transfer is considered only when the divorce case has been finalised and the final divorce documents have been served, in order to determine to whom, custody of the children has been awarded;
- 4.2.6.2.5 The EM : Community Services will give consideration where due to personal / unforeseen circumstances children resides with the alternative parent;
- 4.2.6.2.5. Transfers to co-tenant families are dealt with in accordance with the stipulations of the Housing Policy and all relevant facts are provided to enable the Manager: Housing Administration to come to a meaningful decision.

Transfers to co-tenant families will be considered only if:

- (a) The tenant passed away or in cases of mental or physical causes;
- (b) Where the tenant requests, in writing, such transfer, due to financial reasons (to own children) in order to buy the property. Tenants to be warned, as to the consequences of such a step;
- (c) In cases where the tenant is admitted in an old age home or similar institution.

- 4.2.6.2.7. In cases where the tenant passed away, and the rental agreement is transferred to a family member, he/she is liable for payment of all arrear rentals as from the date of the death of the previous tenant. Other arrear rentals are to be recovered from the estate of the deceased, if possible, or must be written off as irrecoverable.
- 4.2.6.2.8. If a tenant should die and his/her spouse was married in community of property, the surviving spouse is responsible for the outstanding rentals and/or repair costs.

4.2.7.1 SALEABLE MUNICIPAL HOUSING AND SERVICED ERVEN

On the 17th October 2000 the Municipality decided that:

- 4.2.7.1.1 That tenants of Municipal houses, who own fixed properties or previously owned fixed properties, be given two options, namely:
 - 4.2.7.1.1.1 To stay on as the tenants of the Municipal houses, or
 - 4.2.7.1.1.2 To buy the houses at a market-related price;
- 4.2.7.1.2 That beneficiaries of serviced erven, who own fixed property or previously owned fixed property, be given the option of buying the serviced erven at a market-related price. Should a beneficiary of a serviced erf not wish to exercise this option, namely to buy the serviced erf at a market-related price, the erf must be re-allocated to the next applicant on the Waiting List;
- 4.2.7.1.3 That in the instance where the tenant or beneficiary, who owns fixed property, want his/her brothers, sisters, sons, daughters or other family members to buy the house/serviced erf, these persons will not qualify for the subsidy and the subsidy will only be applicable when the house/serviced erf is allocated to the next applicant on the Waiting List for Municipal housing;

3.2.7.1.4 That the above only be applied in respect of houses built and serviced sites, developed before 15 March 1994, because these houses and stands qualify for the capital subsidy of R7500,00 and that only beneficiaries who moved into the houses and onto the serviced erven before the above date, qualify for the afore going exemptions.

4.2.8. RENT COLLECTION

Rent collection and the implementation of the indigent Policy are a line function of the Department: Financial Services, and as such are dealt with by the said department. Housing Administration together with Department Financial Services embark on an annual indigent drive specifically at municipal rental units.

4.2.9. DEPOSIT

The tenant must provide the equivalent of a month's rent as a deposit before being granted access to the unit. This deposit will be used to defray unpaid monthly rent or may be used to offset costs incurred through damages attributed to the tenant.

4.2.10. WRITING OFF RENT

The methodology applied in determining rental-rate adjustment, sourcing of outstanding rent and/or writing-off of rent are to be in accordance with Municipal Financial Policies.

4.2.11 REPAIRS

4.2.11.1 RENTED UNITS

The Municipal officials will inspect the units from time to time to verify that the interior of the unit is properly maintained. The inspections will be scheduled via a notice delivered to the units' occupants. Failure of the occupant to maintain the unit in a proper and satisfactory condition may result in his/her lease being revoked.

No subletting of any unit will be accepted by the Municipality. The sub-tenants will immediately vacate the unit on notification to do so by the Municipal officials. The officially approved tenant will remain responsible for any damaged and non-compliance occurring in the unit. Subletting will be an immediate action resulting in the cancellation of the occupation rights and lease by the approved tenant.

In terms of the rent contract, as prescribed by the State, The Municipality is responsible for repairs which are the consequence of natural wear and tear, whilst the tenants are responsible for the cost of repairs which become necessary as a result of their own acts.

The tenants are also responsible for maintaining the dwellings in a good livable condition with emphasis being placed on the painting of the interior walls and ceilings. The tenant is also responsible for the replacement of light bulbs within the accommodation.

The maintenance of the exterior walls of dwellings, however, is the responsibility of the Municipality.

A percentage of all rental monies are placed in a maintenance fund, from which all repairs, for which the Municipality is responsible, are financed.

A clean, livable dwelling will be provided before the tenant can be held responsible for its continued maintenance. An inspection form will be signed by both the Municipal official and the tenant on handover of the unit to the tenant on which the state of the unit is recorded and agreed between the parties. On vacating the unit both parties will re-inspect the unit to ensure that only normal wear and tear has occurred. Any damage is noted for which the tenant will be held responsible. The costs to repair such damage will be deducted from the deposit held by the Municipality. If the cost exceeds the deposit then the tenant will be held liable for that shortfall.

In cases where the interior walls and ceilings need painting, the required quantity of paint is determined by the building division and provided to the new tenant via arrangements made by the housing office. The tenant signs for receipt of the paint and the supervisor will inspect the premises one month later to determine whether the paint has in fact been used for the purpose it was provided for.

The recoverable costs memorandum for any repair work by the Municipal official is recorded in a register, allocated a serial number and referred to the Section: Rent Collection and Works. This section will send the specified account to the tenant responsible for settling it, who can then make arrangements for paying off the costs. As soon as an account has been settled in full, it is recorded in the register as finalised. In cases where repair costs cannot be recovered, a memorandum is referred to the Manager: Housing Administration, stating the reasons such as death and address unknown so that the costs can be written off against the maintenance fund.

4.2.11.2. UNITS FOR SALE

The official responsible, supplies the prospective buyer with a form on which he/she may set out all the defects of the house and then return the form to the housing office.

The defects are noted on the prescribed memorandum and, together with the inspection form, referred to the building division.

The building division determines all the structural defects such as leaking roofs, cracked walls and replacement of outside doors, front or back, for which the Municipality is responsible and sends the form to the housing office. The prospective buyer is notified in writing of the items for which the Municipality accepts responsibility.

4.3. WAITING LIST

The current Waiting List deals with the backlog and does not accommodate new or future demand for housing. Estimates of future need are based on positive growth rates of the total population and estimates on population relocating into the Municipal Area. No references to housing demand have taken into account how the projections around HIV/Aids could impact on the current and future housing demand. In 2015 the Waiting List was un-audited and indicated that there is over 42000 names on the waiting list with an active demand of over

23000 units in the lower socio-economic end of the market in Drakenstein. A Rural Housing Waiting List has been compiled by the Municipality and includes people who are currently working on farms/commercial enterprises/private properties. The List should include people who have been, or are being, evicted from rural properties. The need extends beyond the towns of Paarl and Wellington to areas such as Saron, Gouda, Simondium, Hermon, Windmeul, Nieuwedrift and Blouvillei.

The following criteria apply to the maintenance of the Waiting List:

- 4.3.1. Applications of applicants, who obtain private property where a subsidy was used or/and where private finance was used will be cancelled permanently. The inclusion and/or exclusion of a name can also be subject to divorce, unemployment and unforeseen circumstances. Unforeseen circumstances are defined as "the present situation that came about through conditions that otherwise would not have been the case";
- 4.3.2. The EM : Community Services will consider cases and will recommend to the Executive Mayoral Committee where former employers previously provided housing opportunities to its workers and due to unforeseen circumstances they were displaced from this property and did apply for municipal housing (only cases where a state subsidy were not received – but housing named as company owned houses
- 4.3.2. When being allocated a house, the applicant should comply with the conditions prescribed by the Government Housing Policy;
- 4.3.3. Should an applicant pass away, the application form **will** be transferred to his/her surviving spouse. In cases where a child 18 years and older were residing with the late parent from birth the EM: Community Services will make a recommendation to the Executive Mayoral Committee in this regard to transfer the application to the child;
- 4.3.4. Illegal occupation of rental units results in:
 - (a) Cancel application on the Waiting List;
 - (b) Inform the illegal occupant in writing regarding the cancellation of the application.

The Standard Operating Procedure (SOP) in terms of the occupation of illegal rental units are as follows:

- (a) Notice shall be given to the occupier, in writing, of the illegal occupation. Such notice shall be acknowledged by the occupier by signing a copy of such a notice;
- (b) The notice shall instruct the occupier to vacate the said accommodation within three (3) days failing which a legal eviction order would be sought to compel the vacation to occur;
- (c) Failure of the illegal occupier to vacate the accommodation in the specified period the Municipality will instigate a court action to evict the illegal occupier through the PIE act;

- (d) The sheriff of the court will then evict the illegal occupiers in terms of the court order granted to the Municipality.

4.4. INCORPORATION OF WAITING LISTS

- 4.4.1. From 1 January 1996, all applicants for housing are placed on an integrated, computerised Waiting List;
- 4.4.2. Tenants, who already have accommodation can have the opportunity to obtain their own title hold properties in order to raise the level of property ownership. People without accommodation can then be placed in rental dwellings again.

Clear indicators are necessary to measure nominal and effective demand by housing type. Nominal demand, as opposed to effective demand, represents the number of people that want a house, not considering whether they can afford it. This is reflected in the Waiting List that include the names of all those who want a house within a particular Municipal area.

In the case where an applicant declines three (3) housing opportunities, it will result that the Manager: Housing Administration has the right to de-activate this applicant, but not remove from the Waiting List.

4.5. TERM UNITS

Term housing is a selling scheme which was developed by The Municipality. Only the dwelling unit is purchased, but not the land. The unit originally was sold for R 7 500 but the price was recently lowered for new purchasers, due to the derogated condition of the units. The price is revised from time to time by MAYCO. The units are purchased "as is" and services are rendered at a fixed tariff.

As the development falls outside the housing schemes, the selling thereof and the keeping of the Waiting List, is managed by the Department: Corporate Services and the Department: Financial Services.

4.6. UNAUTHORISED STRUCTURES ON MUNICIPAL LAND

- 4.6.1. To prevent and control the building and spreading of unauthorised structures on Municipal land, measures must be performed within the framework of the "Prevention of Illegal evictions from and unlawful occupation of Land" Act 19 of 1998, the Building Regulations Act 103/1977 and Municipality's Policy on Squatters of July 1998.
- 4.6.2 The Manager: Housing Administration was appointed by the Municipality to perform the duties regarding the prevention and controlling of unauthorised structures on Municipal land, within the following policy framework:
- 4.6.2.1 That a monitoring network, which involves all Municipal departments, sections and officials, be established and maintained;
- 4.6.2.2 That unauthorised structures be dealt with as set out hereunder:
- 4.6.2.2.1 Removal of unoccupied structures as soon as possible preferably within

- twenty four (24) hours of the structure/s being reported;
- 4.6.2.2.2 Removal of unauthorised structures under/over services and against Municipal property, where a court order can be issued by the Magistrate’s Court;
- 4.6.2.2.3 Removal of occupied structures which form part of an informal settlement, which give rise to complaints and cause problems, subject to the following procedures:
- 4.6.2.2.3.1 Each case is to be submitted to the Municipality for approval, before a court order is obtained;
- 4.6.2.2.3.2 Once approved by the Municipality, a court order will only be obtained after the appropriate public participation process for that particular area, has been followed;
- 4.6.2.2.3.3 The Municipality will in each case, consider whether the provision of alternative land is supported, depending on the merit and circumstances of each settlement/case and the availability of land. Squatters will not be given preference when allocating new properties, unless their names appear on the official Waiting List.
- 4.6.2.3 That all structures which are primarily being used for housing purposes be dealt with as follows:
- 4.6.2.3.1 The structures be numbered and structure owners be registered on the municipal housing demand data base);
- 4.6.2.3.2 The position and size of the numbered structures and detailed information such as names and numbers, of the occupants, must be recorded;
- 4.6.2.3.3 The occupants of these structures may, if deemed fit by Municipality and if land is available, be relocated to an informal settlement area which is planned specifically for that purpose. Such a relocation process must be undertaken taking into account the Municipal Waiting List;
- 4.6.2.3.4 All the qualifying occupants of numbered structures must be added to the Waiting List, if they have not yet applied for Municipal housing;
- 4.6.2.3.5 In cases where occupants of numbered structures refuse to be relocated to the informal settlement area their structures be demolished in terms of the normal legal procedures.
- 4.6.2.4 In cases where the owners of illegal structures can be identified an account for demolition be served on such persons;
- 4.6.2.5 That the Head: Planning and Economic Development be requested to continue the search for land for low cost housing development.

4.6.3 STORING OF BUILDING MATERIALS OF ILLEGAL STRUCTURES

- 4.6.3.1 All metal products to be immediately removed to a commercial metal scrap yard;
- 4.6.3.2 All building rubble, if any, to be removed to an approved building rubble dumping site;
- 4.6.3.3 All other material to be removed directly to a compost mill, transfer station, pyrolysis plant (when in operation) or approved tipping/dumping site for processing;
- 4.6.3.4 Investigate the legal aspects in terms of the new law/act on illegal squatting or

other legislation, which may be applicable.

4.6.4 The motivation in this regard is as follows:

- 4.6.4.1 If materials are stored temporary, it has to be handled and dumped at great expense. Re-handling of the materials should be avoided as far as possible;
- 4.6.4.2 Paarl has been declared a smoke controlled area and the Municipality should not undertake the burning of materials, except in approved installations;
- 4.6.4.3 If materials are to be stored at any site, provision has to be made against the possibility of fire and theft. The costs incurred, compared with the value of the products, must be justified.

4.7 ILLEGAL OCCUPATION OF MUNICIPAL DWELLINGS

An unlawful occupant is a person who is:

- a) A person who has moved into a vacant Municipal unit without the Municipality's authorization;
- b) Has forced the legal tenant out of the Municipal unit;
- c) Has been left behind by a vacating tenant but does not qualify to continue occupying the unit without the Municipality's authorization.

SOP IN CASE OF ILLEGAL OCCUPATION OF MUNICIPAL DWELLINGS:

- 4.7.1 The Municipality must conduct a home visit immediately after a report is received or it is suspected for any reason that there is an unlawful occupant in occupation of a Municipal unit.
- 4.7.2 Persons/families, occupying Municipal dwellings illegally, will then be notified beforehand in writing (registered mail) to vacate the dwelling and warned that the power supply to the dwelling will be discontinued. Also that his/her application for Municipal housing will be cancelled and that such application will only be re-instated after he/she has been legalised as a tenant or after he/she has vacated the dwelling.

Should the illegal occupant fail to adhere to this notice, the power supply be discontinued and his/her application for Municipal housing cancelled. If the illegal occupant(s) does not vacate the Municipal unit as informed, they will face eviction as specified in the notice letter. The Mayoral Committee will be informed about eviction action being proposed. An extension may be granted to the illegal occupant, if agreed by the Municipality, in order to find alternative accommodation. If an extension was granted and after such time has lapsed a physical check will be undertaken by the Municipality to ascertain the state of occupation in the Municipal unit. If the illegal occupant is still in occupation Municipality's attorney will be instructed to institute the required proceedings for eviction.

On 20 February 2014, Council resolved that the housing policy be amended to read as follows:

- 4.7.2.1 All illegal occupants of Municipal flats, who were informed of their illegal status before 13 July 2013, or having submitted a sworn affidavit that he/she stayed at the particular address before the aforementioned date, may be legalised, on condition that they qualify in terms of the Municipality's and the National Housing policy;
- 4.7.2.2 All financial losses sustained by the Municipality be collected in terms of the credit control policy.
- 4.7.3 Legal advice of Municipality's attorneys, the rental contract of a tenant, whose dwelling has been vacated, may be regarded as cancelled.

It is apparent that any payment arrears for Municipal service must be collected from the party involved.

4.8 EMERGENCY ACCOMMODATION IN CASES OF DISASTER

This section of the policy seeks to lay grounds for the implementation of National Policy on housing assistance in emergency housing situations. Refer to the Municipal's Emergency Housing Policy.

Objectives

The main objective of this policy is to facilitate programmes that will ensure provision of temporary housing relief to people in urban and rural areas, who find themselves in emergency situations, such as when:

- a) Their existing shelters have been destroyed or damaged;
- b) Their prevailing situation poses an immediate threat to their lives, health and safety;
- c) They have been evicted or face the threat of imminent eviction.

Problem Statement

There are a number of issues that lead to the need for emergency housing. However, they can largely be grouped into two categories:

- a) Illegal or legal evictions;
- b) Natural Disasters.

Legal Provisions

- a) National Department of Housing, 2004: National Housing Programme: Housing Assistance in emergency circumstances;
- b) Section 27 (c) of chapter two of the constitution provides that "everyone has the right to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance";

- c) The Policy is instituted in terms of section 3 (4) (g) of the Housing Act 107 of 1997, facilitating temporary relief assistance;
- d) Disaster Management Act, 2002 (Act No. 57 of 2002);
- e) Expropriation Act, 1975 (Act No. 63 of 1975).

Administrative Control Measures

In order to be eligible the person(s) affected should not be able to address their housing emergency from their own resources or access other forms of assistance such as insurance.

Roles and responsibilities of the Municipality:

- a) The Municipality must apply to the Provincial Department of Human Settlements for the necessary funding subsidy allocated by the National Department of Housing;
- b) The Municipality must consider whether a matter merits the submission of an application for assistance under this programme;
- c) Initiate, plan and formulate applications for projects relating to emergency housing situations, which must be in collaboration with, and under the supervision of, the Provincial Human Settlements Department;
- d) Request assistance from the Provincial Human Settlements Department on any of the matters concerned if the Municipality feels that it lacks the capacity, resources or expertise to address the situation;
- e) Implement approved projects in accordance with agreements entered into with Provincial Human Settlements Department.
- f) Assume ownership of the engineering services installed;
- g) Manage, operate and maintain the emergency settlement areas;
- h) Ensure, as far as possible, the availability of bulk and connector engineering services;
- i) Provide basic Municipal engineering services such as water, sanitation, refuse removal services and other municipal services;
- j) As a precondition for approval of an application, conduct planning for the development of a permanent housing situation for affected persons, wherever appropriate;
- k) Provide materials, assistance, and support where necessary to enable the installation or repair of engineering services or the repair or construction of shelters by or for the affected persons.

Approach and Principles

Principles

Emergency housing must adhere to the principles contained in National Housing Programme: Housing Assistance in Emergency Circumstances (National Department of Housing, 2004). Some principles are highlighted below:

- a) The provision of temporary assistance to people who require assistance due to circumstances beyond their control, with the exception of repair or reconstruction of damaged formal housing;

- b) Assistance will be limited to the essentials, it will not seek to provide formal housing or engineering services of the same nature as any previously received by the recipient of emergency assistance;
- c) It will constitute the provision of temporary aid and be of a temporary nature;
- d) Emergency assistance serves to augment and supplement existing programmes and not replace them. For example, if an official disaster is declared the housing department will assist, but not replace, the functions performed by the disaster management unit which includes provision of tents, water tanks;
- e) This programme must not be used as a method of queue jumping which could occur through prioritising such projects and providing formal housing options;
- f) Where resettlement is required, households should be located as close as possible to their existing location.

Categories of Emergency housing

There are three broad emergency housing solutions:

1. Emergency housing situation with a permanent settlement solution

In the case that land is available for permanent housing three possibilities exist:

- a) *Temporary on-site assistance, no relocation required:* In this case the existing settlement land is suitable for formal housing. Temporary housing is provided as a first phase towards permanent housing. In situ upgrading will subsequently be considered;
- b) *Relocation to a permanent location with assistance on a temporary basis:* In this situation the site where people have come from is not suitable for permanent settlement. However where an alternative site which is suitable for permanent housing is available. In this case people may be relocated. Temporary housing is provided as a first phase towards permanent housing. In situ upgrading will subsequently be used.
- c) *Temporary assistance through resettlement to an existing developed area:* In this situation the site where people have come from is not suitable for permanent settlement. However, an alternative site in an already developed area which is suitable for permanent housing is available. In this case people are relocated to this site Temporary housing is provided as a first phase towards permanent housing. In situ upgrading will subsequently be used.

2. Existing formal housing

This refers to the situation in which existing formal housing which has been destroyed, due to no fault of the owner, will be repaired or rebuilt:

- a) On the existing site;
- b) On a new serviced site.

3. Temporary settlement

- a) *Relocation to a temporary settlement area, and relocation later to a permanent housing solution:* In this case the households are in an area which cannot be used for temporary or permanent settlement are therefore relocated to a temporary settlement area until a permanent solution can be found. Once a permanent solution has been found households are once again moved.

 - b) *Temporary on-site assistance, followed by relocation to a permanent temporary settlement area:* In this case the land affected is suitable for temporary settlement. Relocation is necessary, but cannot occur immediately. Temporary housing assistance is therefore given on site until alternative land and resources for permanent housing are available.

 - c) *Relocation to a permanent temporary settlement area.*
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