



# Wes-Kaapse Provinsiale Parlement Western Cape Provincial Parliament IPalamente yePhondo leNtshona Koloni

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## **REPORT OF THE STANDING COMMITTEE ON HUMAN SETTLEMENTS ON THE 2016/2017 ANNUAL REPORTS OF THE DEPARTMENT OF HUMAN SETTLEMENTS, THE WESTERN CAPE RENTAL HOUSING TRIBUNAL AND THE WESTERN CAPE HOUSING DEVELOPMENT FUND**

The Standing Committee on Human Settlements, having considered the Annual Reports of the Department of Human Settlements, the Western Cape Rental Housing Tribunal and the Western Cape Housing Development Fund, for the 2016/2017 financial year, reports as follows:

### **1. Introduction**

Annual Reports are key instruments by which the Department of Human Settlements (the Department) and its Entities, the Western Cape Rental Housing Tribunal (the Tribunal) and the Western Cape Housing Development Fund (the Fund), report on their performance during a financial year. The Department's performance and that of its Entities are measured against the set targets and budgets as outlined in their Strategic Plans and Annual Performance Plans for the period under review. In addition hereto, it accounts for the success of each Programme implemented.

The Annual Report Programme for the 2016/2017 financial year was advertised in various newspapers, inviting stakeholders and members of the public to attend and participate in the discussions. The Committee deliberated on Part A: General Information, Part B: Performance Information and Part D: Human Resource Management of the Annual Reports of the Department and its Entities.

### **2. Overview**

The consideration of the Annual Reports of the Department and its Entities took place on 19 October 2017. Standing Rule 105(1) of the Western Cape Provincial Parliament provides standing committees with the power to consider Departmental Annual Reports submitted in terms of the Public Finance Management Act (Act 1 of 1999).

The Minister of Human Settlements, Mr Madikizela, as well as the Head of Department, Mr Mguli, made introductory remarks.

### **3. The Western Cape Housing Development Fund**

#### **3.1 Overview**

The Western Cape Housing Development Amendment Act (Act 2 of 2005) provides for the abolition of the Western Cape Housing Development Board. The Fund will be regarded as dormant until March 2019, when it will be disestablished. It will however continue to exist as an unlisted public entity being administered by the Department. All assets, liabilities and income of the Fund have been amalgamated. The income and expenditure is managed

through the Provincial Revenue Fund. The Fund will still submit financial statements up until the official disestablishment in March 2019.

The Fund has received a clean audit report on the financial statements for the 2016/2017 financial year.

### **3.2 Findings**

#### **3.2.1 Western Cape Housing Development Amendment Bill [B 2–2017]**

3.2.1.1 The Bill was referred to the Standing Committee on Human Settlements (the Committee) on 15 August 2017.

3.2.1.2 The Department briefed the Committee on the Bill on 23 August 2017. After due deliberation and consideration, the Committee undertook to conduct three public hearings on the Bill.

#### **3.2.2 Purpose of the amendments to the Western Cape Housing Development Amendment Act (Act 2 of 2005)**

3.2.2.1 The purpose of the amendments to the Act is to provide the Department with the powers to acquire and dispose of immovable properties for human settlement development.

3.2.2.2 It provides the Premier with the power to disestablish the Fund by proclamation in the *Provincial Gazette*.

3.2.2.3 Further hereto, it will effect technical corrections and administrative amendments to the Act.

#### **3.2.3 Acquisition of immovable property**

3.2.3.1 The Provincial Cabinet has the power to approve acquisition of properties of a market value equal to or above the prescribed value.

3.2.3.2 The Provincial Minister has the power to approve the acquisition of properties of a market value below the prescribed value.

3.2.3.3 The process of acquisition must be fair, equitable, transparent and cost effective. It should also provide for fair, equitable, transparent and competitive bidding procedures as well as the publication and awarding of bids.

3.2.3.4 All property acquired by the Department must be registered under the name of the Western Cape Provincial Government.

#### **3.2.4 Disposal of immovable property**

3.2.4.1 The Provincial Cabinet has the power to approve the disposal of properties of a market equal to or above the prescribed value.

3.2.4.2 The Provincial Minister has the power to approve the disposal of properties of a market value below the prescribed value.

3.2.3.3 The process of disposal must be fair, equitable, transparent and cost effective. It should also provide for fair, equitable, transparent and competitive bidding procedures as well as the publication and awarding of bids.

3.2.3.4 The Provincial Minister approves the disposal of property in terms of the national and provincial policy directives. The disposed property must be used for housing development.

## **4. Rental Housing Tribunal**

### **4.1 Overview**

The Chairperson of the Tribunal, Mr Cloete, and the Head of Department made introductory remarks followed by a section by section consideration of the Tribunal's Annual Report.

The Tribunal was established in 2001 in terms of Section 7 of the Rental Housing Act (Act 50 of 1999). The purpose of the Tribunal is to harmonise relationships between landlords and tenants in the rental housing sector. The Tribunal provides a free dispute resolution service and deals with issues pertaining to unfair business practices.

The activities of the Tribunal are funded from money appropriated by the Western Cape Provincial. The Head of Department, the Accounting Officer, is responsible for any money appropriated.

### **4.2 Findings**

#### **4.2.1 Complaints received**

The Tribunal reported that 3 110 official complaints were registered on its complaints database for the 2016/2017 financial year. A total of 429 cases were referred for hearings and only 205 cases were heard while the others were solved through mediation.

#### **4.2.2 Call centre**

The Call Centre is managed by SA Commercial. It receives the majority of complaints directed to the Tribunal. All calls are recorded for quality control purposes and a monthly report is submitted to the Tribunal for monitoring, evaluation, input and planning purposes. The Call Centre received 10 631 cases for the 2016/2017 financial year.

#### **4.2.3 Helpdesk**

The Department of Human Settlement's Helpdesk reported that it has attended to 3 266 rental queries from the public for the 2016/2017 financial year. They informed the Committee that enquires from members of the public range from official complaints, to advice requested in terms of the rights of landlords and/or tenants.

#### **4.2.4 Captured cases**

There was an increase in the number of complaints received by tenants that were unlawfully evicted. The Tribunal informed the Committee that these complaints were dealt with expediently.

The Tribunal reported an increase of 335 cases in comparison to the 2015/2016 financial year. The increase is attributed to referrals, marketing strategies by the Tribunal and Economic property market factors.

#### 4.2.5 Hearings conducted

The Department reported that a total of four cases are dealt with per day. They indicated that 429 cases have been referred for hearings and 205 cases have been heard in the 2016/2017 financial year. Due to the sensitive nature of the complaints received by the Tribunal, rulings are as far as possible provided on the same day. This is to provide relief to vulnerable tenants and to restore possession and services which were disconnected by landlords.

#### 4.2.6 Warrants of execution

In the 2016/2017 financial year 90 warrants of execution were issued for monetary non-compliance.

#### 4.2.7 Review of applications

4.2.7.1 Section 17 of the Rental Housing Act (Act 50 of 1999) provides for an aggrieved party to approach the High Court of South Africa in the specific area of jurisdiction to review a Ruling. The review application is commonly referred to as an appeal application. No review applications were dealt with in the 2016/2017 financial year.

4.2.7.2 In the absence of uniform national rules regulating the manner in which proceedings of the Tribunal are conducted, the Tribunal has drafted Practice Directives for legal practitioners.

4.2.7.3 The purpose of these directives is to create uniformity and to enhance the effective management of complaints. The Practice Directives will be submitted to the National Department of Human Settlements to consider when drafting the regulations in terms of the Rental Housing Amendment Act (Act 35 of 2014).

#### 4.2.6 Human recourses

##### 4.2.6.1 Tribunal members

Tribunal members are appointed by the Provincial Minister of Human Settlements in terms of the Rental Housing Act (Act 50 of 1999). The Minister has the power to appoint candidates who have expertise in property management, housing development and consumer matters pertaining to rental housing. The Tribunal consists of not less than three and not more than five members. The Act prescribes that a Tribunal member's appointment must be for a period not exceeding three years. The Minister however can re-appoint a member whose term has expired for an additional three years.

##### 4.2.6.2 Tribunal personnel

4.2.6.2.1 The Rental Housing Tribunal is provided with administrative and technical support by the Western Cape Department of Human Settlements.

4.2.6.2.2 The Complaints Management Unit is split into two, namely the Metropolitan Unit and the Non-Metropolitan Unit. The units are managed by two complaints managers who manages 12 case officers. Two of the posts are based in the George Office and the remaining 10 posts are based in Cape Town.

4.2.6.2.3 The Court Management component is headed by a clerk of the court and is assisted by two administrative officers.

4.2.6.2.4 A new component, namely the Complaints Administration, was established to improve first-line resolution of complaints received by the Tribunal.

#### 4.2.7 Expenditure

The Tribunal was awarded a budget of R12 352 000, which was spent in the 2016/2017 financial year. The Tribunal's budget is managed within Programme 1 of the Department of Human Settlements.

## 5. The Department of Human Settlements

### 5.1 Overview

5.1.1 The Department focused on the following three main priorities for the 2016/2017 financial year:

- The upgrading of informal settlements to provide basic services to all;
- Strengthening of private partnerships to increase the delivery of affordable houses to people earning above the free subsidy threshold; and
- The allocation of free subsidised state houses to vulnerable individuals.

All targets set by the Department were met for the 2016/2017 financial year. The Auditor-General did not differentiate between the targets set which resulted in the Auditor-General expressing an unqualified audit opinion.

### 5.1 Findings

5.1.1 The Department informed the Committee that challenges were being experienced in achieving its set targets due to a growing population and rapid urbanisation.

5.1.2 As part of the Department's process to improve integrated development, 25 municipalities were provided with technical support including skills transfer to improve on human settlement planning at municipal level.

5.1.3 As part of the Department's research projects four research papers were concluded. These are:

5.1.3.1 An assessment on the Finance Linked Individual Subsidy Programme;

5.1.3.2 A socio-economic research paper on the George informal settlements;

5.1.3.3 An enumeration study for select informal settlement pockets in the Metro; and

5.1.3.4 A research paper on Contested Title deeds that related to the title deeds backlog.

5.1.5 A task team was implemented by the Department to expedite the transfer of title deeds through the Title Deed Restoration Programme. The process ensured that 9 767 title deeds were transferred to beneficiaries. Due to this intervention the Department overachieved on its target of 7 000.

5.1.6 The Department developed a policy to assess the eligibility of subsidy applicants that are disabled to fill a gap in the National Housing Code. The Code allows for single person

households to qualify for a full subsidy and in instances where the individual has a disability, but the disability is not defined. The policy fills this gap by using the award of a permanent disability grant by the South African Social Security Agency as a basis for testing the eligibility for a human settlement subsidy. This is an important milestone for the Department and the Province, since no national policy exists that addresses this category.

- 5.1.7 A Departmental Partnership Strategy was developed by the Department to form mutually beneficial partnerships which are monitored and strategically maintained. The purpose of the Strategy is to explore how the Department can create, maintain and promote sustainable partnerships to meet its mandates, goals and objectives. The Strategy would focus on measurable, realistic and time based outcomes and will establish consistent mechanisms for partnership implementation and interaction.
- 5.1.8 The Department included additional targets under Programme 3: Housing Development. The Human Settlement Development Grant (HSDG) paid to contractors with women and youth representation was misstated by the Department. The evidence provided by the Department indicated that the HSDG schedule was not appropriately accumulated and that the HSDG schedule did not correspond with the evidence provided. The Department indicated that 30% of opportunities be provided to women and youth respectively. The targets relating to women and youth were not met due to the shortage of women and youth contractors in the market. The Auditor-General did not differentiate between the targets set, which resulted in the Auditor-General expressing an unqualified audit opinion.

## **6. Resolution**

The Committee RESOLVED to meet with the Office of the Auditor-General to discuss the opinion expressed with regard to the Human Settlements Development Grant paid to contractors with women and youth representation (As stipulated on page 113 in paragraphs 20 and 21 of the Department's Annual Report).

## **7. Information requested**

- 7.1 The Committee REQUESTED that the Department provide it with a report on the:
  - 7.1.1 Cases which the Tribunal had to make rulings on;
  - 7.1.2 Cases considered by the Tribunal originating from non-Metropolitan areas;
  - 7.1.3 Historically Disadvantaged contractors and their progression in terms of development; and
  - 7.1.4 Number of households who have not yet received their title deeds, the municipalities in which they are located, the reasons for the delay in receiving title deeds and the estimated date of transfer. The report should also indicate what the waiting period for a title deed from a specific municipality is.

**8. Conclusion**

The Chairperson thanked the Minister, the Head of Department and the Western Cape Rental Housing Tribunal for the preparation and responses to the questions raised by the Committee members.



**MS LM MASEKO (MPP)**  
**CHAIRPERSON: STANDING COMMITTEE ON HUMAN SETTLEMENTS**

**DATE:** 22 Nov 2017