



# **PORTFOLIO COMMITTEE PRESENTATION ON NEWTOWN HOUSING CO-OPERATIVE INTERVENTIONS OCTOBER 2013**

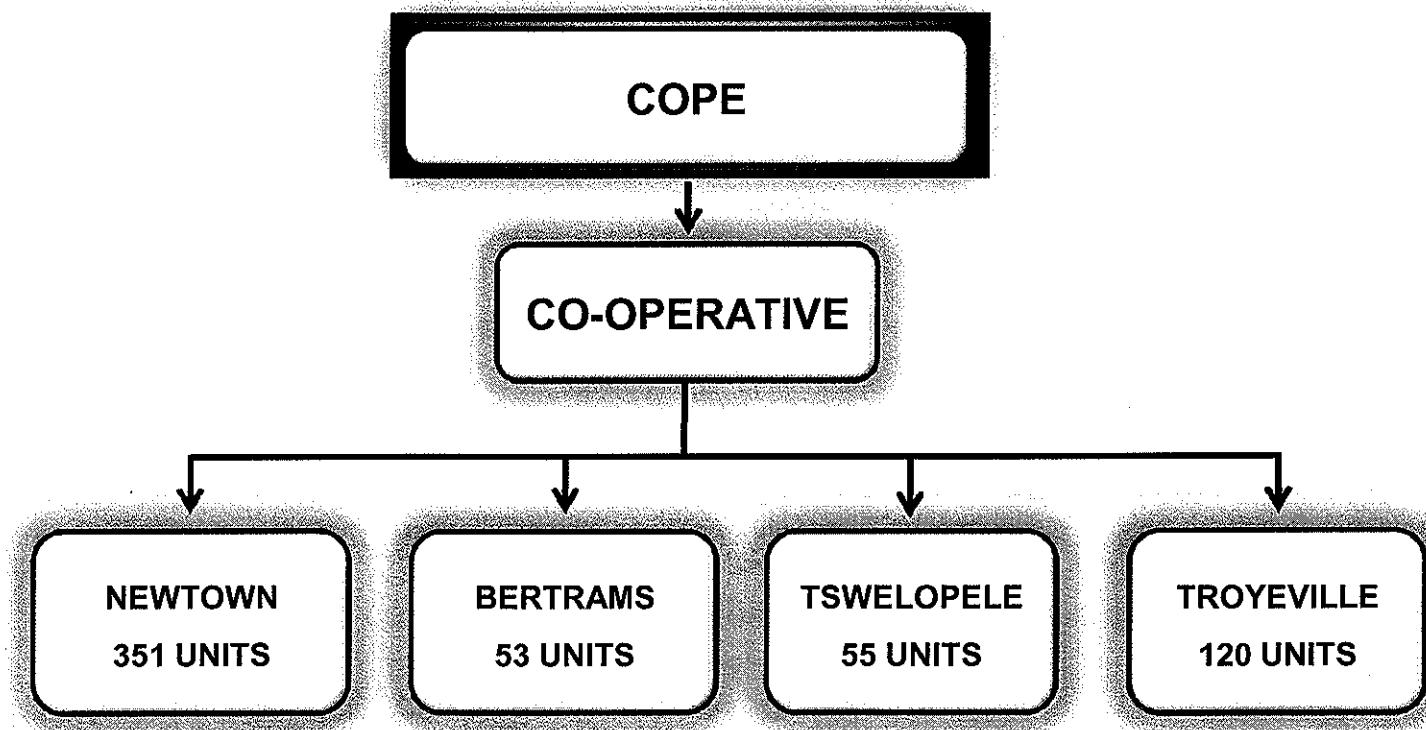




- Co-operative housing:** Collective ownership of property via shareholding in a Co-operative. State subsidised if target market falls within gap/affordable housing market.
- Social Housing: Rental housing (no ownership) for gap/affordable Housing. State subsidized.**
- Sectional Title:** Ownership in a complex, usually town houses.

## BACKGROUND

# BACKGROUND (Cont.)





- Target market: Households in the gap/affordable, the income then was R1,501 - R3,500 per month
- Establish Housing Co-operatives
  - Project manage the development of housing units
  - Raise funding on behalf of existing or to be established housing co-operative
  - Acquire derelict buildings for conversion and renovating into housing units (Brown field)
  - Assist housing co-operatives to acquire land for greenfield housing development
  - Promote housing co-operatives in Gauteng:

#### 1. BEFORE THERE IS A PROPERTY ON THE GROUND

OBJECTIVES WERE:

COPE WAS AN NGO REGISTERED AS A SECTION 21 COMPANY WHOSE

**BACKGROUND (Cont.)**

# BACKGROUND (Cont.)



## 2. AFTER COMPLETION OF CONSTRUCTION OF HOUSING UNITS

- Recruit Co-operative members
- Assist housing co-operatives to establish own Board of Directors
- Train co-operatives board members on Governance
- Train co-operative beneficiaries on co-operative models i.e. ownership structure; obligations of both parties etc.
- Allocation of Housing to qualifying co-operative members
- Property Management





- Preparation of annual reports etc.
- Statutory Compliance on behalf of Co-operative
- Management report to the board
- Taking of minutes at board meetings
- Scheduling of board meetings

#### SECRETARIAL SERVICES FOR BOARD OF CO-OPERATIVES

- Management and payment of Service Providers: i.e. Security, Cleaners, Maintenance
- Payment of Creditors
- Collection of charges and levies from co-operative members
- Maintenance of the property

#### PRIMARY ROLE: PROPERTY MANAGEMENT WHICH INCLUDES THE FOLLOWING

COPE's PRIMARY ROLE

# COPE'S SOURCES OF FUNDING



## SOURCES OF FUNDING

- NBBL grant: R3,4 million (Agreement signed February 1997)
- Other grant funders : (SHF, Japanese Government) for specific items, i.e. Governance training and other capacity training)
- Property management fees from co-operatives that it managed

***NB: The grant funding from NBBL, a Norwegian Development Agency could be used for:***

- Bridging finance
- Capacity Building
- Technical Assistance



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# MANAGEMENT INSTABILITY AT COPE

## □ 2002 – 2004: Management instability at Cope

- Luthando Vutula resigned in May 2000 and joined NHC
- Sipho Semilane who succeeded Luthando Vutula, committed suicide which fuelled rumours of mismanagement: NB: NHC did not investigate these rumours as it had no legal basis to do so.
- Tengjive Mayisela who succeeded Sipho Semilane resigned after being charged for financial misconduct. NHC paid for the forensic audit that confirmed financial misconduct.



# MANAGEMENT INSTABILITY AT COPE (Cont.)

- Meetings with members of each co-operatives aimed at assisting co-operatives with moving towards sustainable management
- Meetings attended by members of the co-operatives and officials of Gauteng Human Settlements Department
- Rescheduling of loan accounts following co-operatives commitments
- NHFC offered to facilitate free and fair elections of board members at its own costs
- NHFC offered to assist with appointment of property management company to assist with managing each co-operatives whilst mentoring selected staff of co-operatives
- Facilitated appointment of Trafalgar as property manager to some of the co-operatives

**NB: Meetings were usually held from 19h00 – 22h00**





- Deteriorating management capacity at Copé
- Poor property management of co-operatives under its management with the following result:
  - Poor collection of levies and charges as statements were not issued on time
  - Poor maintenance of properties
- Poor property management of co-operatives under its management with the following result:
  - Poor collection of levies and charges as statements were not issued on time
  - Poor maintenance of properties
- At some point Copé could not pay its operational expenses
- NHFC did a due diligence on Copé and provided R500k to meet operational expenses
- Outcome of due diligence indicated lack of management capacity
- Copé liquidated 2006 (Copé Board Resolution)

## MANAGEMENT INSTABILITY AT COPE (Cont.)

# NEWTOWN HOUSING CO-OPERATIVE

- Established 1999 and the largest Co-operative of the 4
- NHFC approved its housing development loan of R14 465 900 in December 1999.
- The loan agreement was signed by:
  - NHFC CEO and Head of Credit on behalf of HIDF, now NHFC and
  - Luthundo Vutula and Irina Zapryagaeva on behalf of Newtown
- (NB: The two were employed by Cope as GM and FM)**
- Construction of the 351 units commenced in 2000 and completed 2001





<input type="checkbox"/> Number of units 351, comprising of Studios, 1 and 2 bedrooms
<input type="checkbox"/> Funding approved in December 1999 and disbursed over the construction period
<input type="checkbox"/> Total funding
<input type="checkbox"/> Members equity
<input type="checkbox"/> Institutional Subsidy (Gauteng DHS)
<input type="checkbox"/> NHFC loan amount secured by mortgage bond

R21 761 900

R 837 600

R 6 458 400

R14,465 900 m

FUNDING OF NEWTON HOUSING COOPERATIVE

DECEMBER 1999 : NEWTON FUNDING ARRANGEMENTS

# NEWTOWN:COST PER UNIT AND REPAYMENTS

## 1 BEDROOM

Total costs:	<b>55 691</b>
<b>Funding :</b>	
Equity :	<b>2,200</b>
Inst. Sub :	<b>18,400</b>
NHFC Loan:	<b>35,091</b>
<b>Total funding:</b>	<b>55,691</b>

- Monthly repayments on NHFC loan at current @ P+1=R336.
- This amount excludes payment for the following;
  - insurance, property maintenance, security, cleaning, electricity, water etc.

## 2 BEDROOM

Total costs:	<b>67139</b>
<b>Funding:</b>	
Equity:	<b>2500</b>
Inst. Sub:	<b>18400</b>
NHFC Loan:	<b>46 239</b>
<b>Total funding:</b>	<b>67 139</b>

**Monthly repayment on NHFC loan @  
P+1= R438**



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- At this point NHFC was not concerned
- Above was normal in comparison with other social housing institutions
- Some months instalments would be missed but arrangements would be made by Coope to catch-up
- Loan repayments consistent

## 2003 -2004: NEWTOWN LOAN REPAYMENTS

- Loan repayments become in-frequent from almost all the housing co-operatives managed by Cope, including Newtown
- NHFC met with Cope to ascertain if the Co-operatives have financial problems.
- NHFC carries out due diligence on Cope
- NHFC issues letters of demand to co-operatives in arrears
- Fractions of Newtown co-op members claiming to be “legitimate board members” visit demanding to manage themselves





- Paid facilitator to reconcile warring factions
- Provincial Human Settlements Department requested to assist to resolve the problems Newton. Meetings held in the evenings from 19h00 – 22h00
- Assisted with drafting technical requirements for a property management tender
- Appointment of Trafalgar Property Management to manage Newton on behalf of members
- Trafalgar agreed to mentor staff of the housing co-operatives
- Trafalgar failed to manage Newton effectively due to factionalism
- NHC agreed to investigate Sectionalising Newton to enable individual members to take ownership of loan repayments. Did not proceed with investigations as factions within Newton were not cooperating. Newton told to instruct the property manager to do the investigation if they wished to continue with the matter.
- Newton intervention by NHC was intense as it was the biggest housing co-operative by number of units.

## NHC'S INTERVENTIONS AT NEWTON

# NHFC INTERVENTIONS CHALLENGES

- Factionalism within Newtown Co-operative Board and Membership
- Lack of accountable management due to Cope not functioning optimally
- Lack of understanding of the co-operative model of ownership
- Co-operative members not honouring their financial obligations



## NHFC INTERVENTIONS CHALLENGES (Cont.)

- Accumulating loan arrears in all co-operatives.
- Property deteriorating due to lack of maintenance.
- One of the factions for all intents and purposes "hijacked" the Newton property.
- Factions letting out units to non-co-operative members.
- Members who refused to pay "rent" to either of the factions evicted through use of force/violence.



# NHFC'S NEXT ACTION : SALE OF NEWTOWN

- Newtown property sold on auction to Johannesburg Housing Company in 2009

□ Property sold for	R25million
□ <b>Outstanding NHFC loan amount</b>	
• Capital	R14million
• Interest	R 7million
• <b>Total:</b>	<b>R21million</b>

**Excludes NHFC legal expenses of R2.7million**

- To date NHFC has been paid R14million by the liquidator

**NB: Newtown had other creditors**





- Pursue legal action against Newton Housing Co-operatives the objectives being:
  - Write off the outstanding loan and walk away, this was not feasible and would be out of line with NHC policies and Mandate.
  - Recovery of NHC funds (state funds);
  - Legal action may make co-op members to work together to salvage their property.
  - Co-op members may finally be persuaded by legal action to cooperate with NHC in the best interest of all stakeholders
  - What to do if co-op members do not cooperate by honouring debt obligations, proceed with legal action in terms of the loan agreement and thereafter what?
  - How does NHC ensures that government money does not end up in the hands of private landlord who should charge exorbitant rental?
- NHC dilemma with legal action;

## NHC REMAINING PART OF THE SOLUTION

# FACTOR'S THAT INFLUENCED NHFC's DECISION

## □ NHFC final decisions influenced by;

- No appropriate vehicle at the time to take over Newtown Housing Co-operative and manage it in the best interest of all stakeholders as well as ensuring that the NHFC loan is repaid.
- Legal backing required to take control of the Newtown property
- Possible recoupment of government money if property is sold
- NHFC policies and Mandate





- NHFC takes the decision to liquidate Newton.
- Legal process takes two years to conclude.
- NHFC granted the right to foreclose on Newton after all legal avenues had been exhausted by the various factions of Newton.
- Liquidation order granted in August 2008.

## NHFC CONSIDERATION AND FINAL DECISION

# JOHANNESBURG HOUSING COMPANY (JHC)

- In 2009 JHC acquires the Newtown property at an auction for R25million
- JHC is a social housing institution accredited with Social Housing Regulatory Administrator
- JHC to keep property for rental in the Social Housing Market.
- NHFC has recouped R14m of the R21m government money that was invested in Newtown Property.





- Neither CoJ, nor the President, nor the National Government nor the Provincial government despite application for joinder were joined and thereby no relief was sought against the state in anyway.
- CoJ reviewed legal judgment and noted process followed was legally correct.
- Neither CoJ, nor the legal representative and proposed way forward that included:
  - New tenant arrangement with JHC as JHC is the legal owner – refused.
  - Mediation process with occupiers and JHC – refused.
  - Acceptance of alternative options provided by JHC – only accepted by a few occupiers.

# JHC's ACTIONS

- Occupants were given enough time before evictions to find alternative accommodation
- JHC offered free transport to those occupants who had secured own accommodation elsewhere
- JHC offered to keep those who could afford to pay accommodation at its various properties whilst renovation to the Newtown property was being undertaken.
- JHC offered to keep indigents in some of their properties whilst alternative accommodation is being sought for them





- Property effectively hijacked since 2006 to 2011 and violence.
- Hijackers of the property extorted rental payment through intimidation and violence.
- Those who could not or refused to pay forcibly evicted without any legal process.

NEWTON KNOWN FACTS...

# COURT CASE ON NEWTOWN

- The legal matter was heard by at least 5 judges
- Two Supreme court appeals
- 4 SCA judges in two separate cases found that the vast majority of the occupants were not of the demographic that could qualify for emergency alternative accommodation.
- The occupants at each supreme court hearing were represented by an attorney , a junior and senior counsel.
- NHFC legal costs excluding other costs R2.7 million
- JHC legal costs R1,5million



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- There is lack of understanding of co-operative housing model
- Funding arrangements
  - Membership and ownership structure – members want individual ownership
  - Obligations of the co-operative members
- No support for co-operatives in crisis
  - Government step in rights to regularise matters limited
  - Capacity Support
- Lack of Management Expertise on management of housing co-operatives
  - Building the future together

## NHFC EXPERIENCE

NHFC's LESSONS ON HOUSING CO-OPERATIVES

# CO-OPERATIVE MODELS FROM ELSEWHERE...

- Norwegian Co-operative Model not most suitable for South Africa
- Develop a South African Co-operative Model that takes the following into account:
  - Funding arrangements
  - Ownership issues
  - Management of co-operatives



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# QUESTIONS AND ANSWERS