**MEMORANDUM**

**REPORT TO THE STANDING COMMITTEE ON HUMAN SETTLEMENTS (WESTERN CAPE PROVINCIAL PARLIAMENT), ON THE CURRENT STATUS OF THE DISTRICT SIX REDEVELOPMENT PROJECT IN THE WESTERN CAPE**

1. **PURPOSE**
	1. To provide a report on the restitution perspective on District Six land claims and current status thereof.

**2. RESTITUTION PERSPECTIVE ON DISTRICT SIX LAND CLAIMS A BRIEF HISTORICAL OVERVIEW**

2.1 The Restitution Act has been promulgated to provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices.

2.2 Upon the enactment of the Restitution Act, a large number of people began submitting claims for restitution of rights in land in District Six. These claimant groups comprised of tenants and owners who lost their rights in land as a result past discriminatory laws and practices.

2.3 The beneficiaries who opted for restoration of rights in land in District Six voluntarily grouped their respective claims together to participate in the redevelopment of District Six on developable land of approximately 40 hectares in extent, situated contiguous to the Central Business District in Cape Town.

2.4 A tripartite agreement was entered into by the City of Cape Town (the donor of the land, specifically demarcated for restitution purposes); the Department of Land Affairs (succeeded by the Department of Rural Development and Land Reform through its Commission on Restitution of Land Rights) and the District Six Beneficiary and Development Trust (representing the District Six claimants at that time) setting out the process and procedures for the implementation of development in the project.

2.5 The Trust was appointed in terms of the aforementioned agreement to manage the redevelopment programme and it did so until its withdrawal from the process of redevelopment after the completion of Pilot Phases 1 and 2 of the project in 2008 and 2013 respectively.

1. **STATUS OF OLD CLAIMS LODEGED (Statistical information)**

3.1 Total claims lodged, verified and validated: 2760

3.2 Claimants opted for financial compensation: 1449

3.3 Claimants who opted for redevelopment: 1201

3.4 Claimants allocated housing units to date: 139

3.5 Claimants still awaiting allocation of dwellings: 1062

3.6 Dismissed claims: 110

3.7 The Department of Rural Development and Land Reform is currently the development manager for District Six Phase 3, co-ordinating the development of 108 units for the eligible beneficiaries. Building of the super structures commenced in 2015 and the whole project was anticipated to be completed in July 2018.However, the contract with Fikile Construction, the building contractors for Pilot Phase 3, was terminated on the 17November 2017 as a result of its failure to comply with its expected legal obligations as per the construction contract and work schedule.

1. **NEW CLAIMS LODGED DURING THE WINDOW PERIOD OF 2015**

4.1 During the re- opening of new claim lodgement a total of 749 people submitted claims for restitution of their rights in land in District Six, however, the process was interdicted in terms of the LAMOSA Constitutional court judgment which ordered the Department of Rural Development Land Reform not to process the new order claims until all the claims lodged before 1998 have been researched and finalized.

**5. ALLOCATION OF HOUSING UNITS**

5.1 Successful claimants were allocated housing units in District Redevelopment Pilot Phase 2 in accordance with criteria which was agreed upon by the Commission in consultation with the Reference Group representing District Six beneficiaries. The primary criterion for allocation of completed dwelling units in the District Six redevelopment had been the date of lodgement of a claim and the secondary criteria included old age; poverty-strickenness and chronic ill health.

5.2 Some claimants had applied of the secondary criteria, the pressing needs, cases to have allocation of completed dwelling units, In terms of Section 6(2) of the Restitution Act 22 of 1994 as amended. A submission was made and approved by the Minister in Pilot Phase 2 to accommodate this category of claimants through what is called an "lndigency Programme".

5.3 After consultation with the Reference Groups, a further submission will be forwarded for the approval of the allocation of dwellings for Phase 3 Re-development as the first memorandum only had limited application to Phase 2 dwellings.

**6. VARIOUS CONCERNED GROUPS IN DISTRICT SIX**

6.1 Various concerned groups have been established to represent the claimants in pursuance of their claims and the following are some of the claimants’ representative bodies that have been established in the redevelopment process of District Six;

1. The District Six Beneficiary and Redevelopment Trust;
2. The District Six Community Forum;
3. The District Six Reference Group; and
4. The District Six Working Committee.

6.2 The **District Six Beneficiary Trust** is a voluntary association established by land claimants on 8 August 1998 for the purpose of resolving their claims pursuant to forced removals from properties previously occupied by them or their ancestors in District Six. It is worth mentioning that, this group or association was party to the tripartite agreement mentioned above and was tasked to manage the redevelopment of Phases 1 and 2 pilot projects in District Six. Its involvement however ended with its decision to withdraw from the redevelopment process for unknown political reasons. The Trust is on record saying that such withdrawal is only “temporarily”.

6.3 The **District Six Community Forum** has also been established to assist with the integration of District Six and hand over to successful claimants of their title deeds. This Forum deals with daily District Six matters.

6.4 The Minister directed that a claimant body be democratically elected to represent the old order claims, i.e. claims lodged before the cut-off date of 31 December 1998. This directive was given to the claimants at a public meeting held at the Cape Town Convention Centre in during December 2012. An entity known as the "**District Six Reference Group (D6RG**)" was elected with a mandate to represent the interest of the claimants/beneficiaries (the old regime claimants in the redevelopment planning of the remaining land parcels). The Reference Group which comprises of the Social Integration and Technical Teams respectively received a mandate from the Minister to negotiate the Implementation of the further phases of the redevelopment project. The District Six beneficiaries provided a fresh mandate in 2017.

6.5 The **District Six Working Committee** ("the Committee") purports to represent both the "old order" claimants of 1998 and those who have lodged claims during the brief period of re-opening between 2014-2016.The Committee approached the Regional Land Claims Commissioner: Western Cape on a number of occasions to discuss the phased implementation of District Six. The Commission was concerned that this entity lacked locus standi and this entity has now applied to the Land Claims Court for a Declaratory Order to force the Minister to engage with them.

6.6 The RLCC: WC has explained on these occasions that the LAMOSA judgment ordered the State not to process the new order claims and further that the Reference Group has questioned the mandate of the Committee to represent the "old order “claims. A report to that effect was submitted to the Committee.

6.7 It should be noted that other groups have also shown an interest in the Development of D6.

**7. LITIGATION IN DISTRICT SIX**

7.1 The redevelopment project has been subject to a number of unlawful occupation of vacant dwellings. The units which were unoccupied by their respective beneficiaries, were invaded by persons who did not agree with the allocation process and/ or who cited pressing housing needs as reasons for their unlawful occupation of the dwellings.

7.2 The Commission through its officials laid criminal charges of trespassing and unlawful entry against the perpetrators and also pursue civil litigation proceedings for their evictions. The last eviction matter was decided in favour of the Commission by the Constitutional Court in April 2018.

**8. BUDGET**

8.1. The total budget approved for District 6: R333, 354,000**.** The Remaining funding available from Restitution for development to date is R153, 105,136.70. This includes the costs to finalise phase 3.

**9. CONCLUSION OF THE DISTRICT SIX PROGRAMME**

9.1 The Department of Rural Development and Land Reform is currently the development manager for District Six Phase 3 co-ordinating the development of 108 dwellings for the eligible beneficiaries. Building of the super structures commenced in May 2016 and this project was anticipated to be completed in July 208, however, the building contractor Fikile Construction has abandoned the project and is no longer on the building site.

9.2 On the 17 November 2017, as a result of its failure to comply with its expected obligation as per the construction contract, the Department of Rural Development and Land Reform terminated its building contract with Fikile construction due to its failure to perform its obligation as per the agreement.

9.2 The Department, through its Principal Agent will now undertake a process of verifying the existing work done by Fikile Construction and once that process has been finalized, new specification, bill of quantities and tender documents will be drafted. A new tender process will then follow and the timelines thereof will be made available at a later stage.

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