



Centre for Affordable  
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in Africa

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**Ms NN Mafu**  
**Chairperson**  
**Portfolio Committee on Human Settlements**

Via email: [kpasiya-mndende@parliament.gov.za](mailto:kpasiya-mndende@parliament.gov.za)

Dear Honourable Chairperson:

**RE: Request to make verbal input to the Committee on the Property Practitioners Bill [B 21—2018]**

Thank you for the opportunity to provide comments on the Property Practitioners Bill [B 21 – 2018]. We would like to make a **verbal input to the Committee** to raise our concerns with the Bill and to share research and experience with direct relevance to its implementation and the drafting of subsequent regulations.

Established in 2014, the Centre for Affordable Housing Finance in Africa (CAHF) is a not-for-profit company based in South Africa whose mission is to make Africa's housing finance markets work, with special attention on access to housing finance for the poor. As an independent think-tank, we undertake and disseminate research and market intelligence, with the aim of increasing investment in affordable housing and housing finance throughout Africa.

Our work in South Africa includes extensive analysis of urban residential property markets, with special attention to the lower end of the market and government-subsidised housing. Most notably, CAHF has recently piloted a housing **Transactions Support Centre (TSC) in Khayelitsha, Cape Town**. (More information can be found at <http://housingfinanceafrica.org/projects/transaction-support-centre/>). The TSC coordinates and offers a range of critical services that enable households to transact formally in the residential resale market. In doing this, the Centre focuses on making the current regulatory and administrative framework for property transactions work efficiently, in terms of both time and cost for the buyers and sellers of residential property in Khayelitsha. The TSC also offers a local focal point through which existing service providers can offer their services, including various non-profit or community-based organisations that offer services that support housing and housing finance market activities.

Since its launch, the TSC has been assisting clients in: preparing the property for sale (confirming integrity of title deed, obtaining a property valuation, and assessing legality of any previous home improvements); matching buyers and sellers, and providing advice; establishing the sale (preparing the offer to purchase / deed of sale and obtaining necessary certificates); registering the sale; and financing the sale.

CAHF is a not-for-profit company, registration number 2014/092722/08.

Board members: Paul Jackson (Chairman) Nomsa Ntshingila, Matthew Rudd, Kecia Rust (Executive)

Our inputs on the Bill are therefore based upon our extensive research and knowledge of the South African residential property market, as well as on-the-ground experience through the TSC in Khayelitsha.

In our view, the Bill has enormous potential to effect significant transformation in the sector and we welcome the efforts to better regulate property practitioners to ensure the more effective and equitable functioning of the residential property market. The broad definition of property practitioner set out in the Bill is necessary in order to ensure transformation of the sector as a whole. However we would raise the following concerns to the Committee:

- **Impact of Fidelity Fund requirements on informal sector:** Through our experience with the TSC and related research on the lower-end residential market, we have gained a nuanced understanding of the barriers which limit formal residential sales and thus restrict homeowners' ability to realise the asset value of their homes. Informal actors play a significant role in facilitating and enabling poor households to buy and transact township properties. It is therefore critical that their role and contribution to widening access to property markets and housing finance is understood and considered in the design, implementation and enforcement of the Bill.

As defined, property practitioners includes: developers, property websites, bond brokers, property managers, informal estate agents, landlords, micro lenders and NGOs involved in housing finance. According to the Bill, property practitioners must obtain a Fidelity Fund certificate and pay fees to the Fund, and must also open and maintain a trust account. However, for example, some of the role-players involved in housing sales and finance at the lower end of the market will not have need for, or capacity to, set up trust accounts. The impact of the Bill on the informal sector must be considered, to ensure there are not unintended consequences which lead to restricted access by poor households to services which facilitate and enable access to housing finance and transaction support.

- **Omission of clear grounds for exemption:** While section 4(5) indicates those circumstances whereby the Minister must not approve an exemption, the Bill does not actually state under what circumstances or grounds a property practitioner can apply for an exemption. For example, the regulations could identify a category of small enterprises focused on the historically-disadvantaged township markets—those small enterprises who are financially unable to pay into the Fund and, due to their function in the property value chain, do not need to open a trust account (e.g. provide legal advice). Those role-players could be exempted from paying levies while still be required to adhere to the code of conduct.
- **Missed opportunity to differentiate types of property practitioners and their respective obligations:** The Bill rightly enables oversight by the Authority of the entire sector but, in doing so, the Bill does not recognise different categories of property practitioners, the role they each play, and their respective responsibilities and needs. The legislation can be improved by segmenting the broad category of property practitioners according to their role in the property transaction process: e.g. housing finance, estate agents and property advertisers, legal advice and conveyancers. Instead of applying one blanket set of obligations to all property practitioners, the Bill would have a greater impact in ensuring transformation of the sector if it tailored obligations and responsibilities for different categories of property practitioners—thus strengthening and improving the efficiency of the entire value chain.

In summary, we acknowledge the critical contribution of this legislation to transforming the property market and promoting more equitable access by poor households to affordable housing. However we would request an opportunity to make a **verbal input to the Committee** to unpack the Bill's potential impact on the informal sector and township residential property markets.

Best regards,



KECIA RUST

Executive Director