

## **REPORT OF THE PORTFOLIO COMMITTEE ON LOCAL GOVERNMENT AND HOUSING ON THE HOUSING DEVELOPMENT AGENCY BILL [B1B-2008]**

### **1. INTRODUCTION**

The Portfolio Committee on Local Government and Housing (the Committee), received the Housing Development Agency Bill [B1B-2008], ( a section 76 Bill) and then, as part of its oversight function, decided to conduct public hearings to solicit inputs and/or comments from the general public and stakeholders.

#### **1.1 Purpose**

The Bill seeks to:

- Establish the Housing Development Agency;
- Provide for its functions and powers; and
- Provide for matters connected therewith.

#### **1.2 METHOD OF WORK**

The Committee met on the 16 May 2008 for the briefing by Hon A Watson, the permanent delegate of the National Council of Provinces, on the Housing Development Agency Bill (B1B- 2008).

On receipt of the Bill, the Portfolio Committee agreed to conduct public hearings regions:

- Nkangala District : Witbank City Hall in Emalahleni Municipality,
- Gert Sibande District : Lillian Ngoyi Hall in Govern Mbeki Municipality and
- Ehlanzeni District : Govan Mbeki Foyer in Nelspruit

These public hearings were conducted on 20 May 2008 simultaneously, in order to obtain inputs or comments. Members of the Committee

were split proportionately to attend the public hearings in all the areas as follows:

**2. DELIBERATIONS**

**2.1 Inputs and Comments**

The public raised clarity seeking questions on clauses regarding the Bill and comments. The Committee managed to respond to all questions and comments made during the public hearings. The public raised the following inputs:

The agency must:

- Make sure that quality houses are built
- Monitor and inspect materials used for building houses
- Ensure that contractors and workers are remunerated on time
- Ensure that Local authorities are capacitated on housing issues
- Ensure that Contractors have the relevant skills
- Ensure that Municipalities speed up the process of building houses
- Ensure that the houses are safe for people
- Have offices in all the regions
- Have powers to take disciplinary measures against municipalities
- Have a term of office of five (5) years

**2.2 Written submission**

Copies of the Bill were circulated to all the Municipalities and also publicized in the news papers in order to enable the Public to make inputs. Consequently only one Municipality, i.e. Pixely Ka Seme Municipality that had made the following input in writing that:

- The agency must include Organized Local Government as a stakeholder that designates a member to serve on the Board as per Section 9.

**3. RECOMMENDATION**

The Portfolio Committee recommends that the Delegation representing the Province of Mpumalanga in the National Council of Provinces be conferred with authority power to negotiate and vote in favor of the Bill, taking into consideration the public comments and inputs enclosed in this report.

**4. CONCLUSION**

The Chairperson would like to thank the Members of the Portfolio Committee, for their participation during and after the proceedings of the public hearings.

Lastly, on behalf of the Committee, the Chairperson would like to request the House to adopt this Report.

  
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**HON. N. MAHLANGU**  
**CHAIRPERSON: PORTFOLIO COMMITTEE**  
**LOCAL GOVERNMENT AND HOUSING**

03/06/08  
DATE



Northern Cape  
Provincial Legislature

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Date: 02 JUN 2008

The Chairperson  
National Council of Provinces  
Hon MJ Mahlangu

#### NEGOTIATING MANDATE FOR THE HOUSING DEVELOPMENT AGENCY BILL (B1B-2008)

##### 1. INTRODUCTION

The Chairperson of the Portfolio Committee on Housing & Local Government, Hon CAT Smith, tables the Committee's negotiating mandate on the *Housing Development Agency Bill [B1B - 2008]* as adopted by the Portfolio Committee on 28 May 2008.

##### 2. PROCESS FOLLOWED

- 2.1 The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *Housing Development Agency Bill [B1B - 2008]* to the Portfolio Committee on Housing & Local Government on 06 December 2007.
- 2.2 The Portfolio Committee received a briefing on the Bill on 15 May 2008 from the Northern Cape's Permanent Delegate to the NCOP, Hon RJ Tau, and the Department of Housing & Local Government.
- 2.3 The Portfolio Committee resolved at the meeting of 15 May 2008 to hold public hearings on the referred Bill in the Frances Baard, Namaqua and Pixley Ka Seme Regions of the Province to solicit the views of communities and stakeholders with regard to the *Housing Development Agency Bill*.

Four (4) public hearings were held on 22 May 2008 as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Provincial Legislature in respect of the Bill.

On 28 May 2008, the Portfolio Committee on Housing & Local Government deliberated and considered the *Housing Development Agency Bill [B1B - 2008]*.



### 3. COMMITTEE INPUTS ON THE BILL

- The Minister must consult with Parliament in the process leading to the developing of regulations.
- Parliament must be consulted when appointing Board Members.
- Draft Regulations must be published in the Gazette for public comment.
- The Agency should put mechanisms in place to assist with provincial matters or problems that may occur.
- In section 12(3) differently abled persons should be included.

### LEGAL TECHNICAL COMMENT ON THE BILL

#### i) Preamble, second paragraph

"low income earners" as in the second paragraph of the preamble had not been defined.

Furthermore the redrafting of same paragraph is proposed as follows -

"AND WHEREAS delays in the identification, assembly and release of state-owned and private land have been a significant factor in the lack of adequate delivery of housing to low income earners."

#### ii) Preamble, third paragraph

The citation of the Housing Act is incomplete, being the Housing Act, 1997 (Act No. 107 of 1997).

#### iii) Clause 5

It is with due regard to the provisions of clause 25(2), not clear from sub-clause (1) who will actually be paying for the acquired land or development thereof, since sub-clause (2) only places an obligation on the Agency to ensure that there is funding for the provision of **all infrastructure** that is required for **housing development** in which it is involved. What about funding for **other aspects** of development and who pays for the actual acquisition?

#### iv) Clause 4

The numbering (1) can be deleted, since this is a single clause with no sub-clauses.

### 4. PUBLIC INPUTS ON THE BILL

- Community participation should be clearly defined. →
- The criteria to be used in the establishment of the board must be clearly outlined in the bill.
- The appointed agency should be monitored.

- The agency should also be involved in the pricing of property.
- Due to fraud in housing, monitoring and reporting lines should be made known to the public and the public should be able to report any problems anonymously.
- The Department must share information with all its relevant stakeholders so that all have knowledge of what the other is doing.
- The agency's monitoring mechanism must take place before building takes place to avoid construction of houses on private land.
- The Agency should consult developers in identifying and acquiring land, as they are not always consulted.

5. **WRITTEN INPUTS ON THE BILL**

- Inputs received from Khathazile Tolong – SASSA, De Aar. (Inputs are attached.)

6. **KEY DETERMINING PRINCIPLES**

The public hearings held by the Portfolio Committee were successful.

The majority of the people who attended the public hearings did not oppose the Bill.

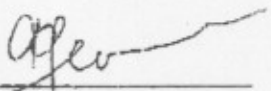
7. **PORTFOLIO COMMITTEE POSITION ON THE BILL**

After due deliberation and taking note of the Public's input, the Portfolio Committee on Housing & Local Government supports the Bill.

8. **COMMITTEE ADOPTION OF THE BILL**

The Committee adopted this negotiating mandate duly signed by the Chairperson of the Committee.

The Committee recommends to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to support the Bill, taking note of the comments and recommendations raised by the Committee as well as inputs from the public.

  
\_\_\_\_\_  
HON CSEOPOSENGWE  
SPEAKER

Rec. cancelled

**Inputs on the (1) National Environmental Management: Waste Bill and (2) Housing Development Agency Bill**

**(1) National Environmental Management: Waste Bill**

- Each household must be provided with a refuse bin by the local municipality together with the department of local government.
- Each street must be provided with at list two big refuse bins to avoid the dumping of refuse in the street corners. These bins must be able to open and close to avoid refuse being blown to the streets.

**(2) Housing Development Agency Bill**

- The housing development Agency should not be seen as money making scheme.
- It must make it easy for the government to identify those that will be taking advantage of tenders and not deliver at the end of the day the desired product
- This bill must also be in alert of those who will start to purchase land in big quantities in order for them to be able to sell the same land back to government in very exorbitant prices.
- It should be stipulated in the bill that all housing projects to include a refuse bin and a fence. By including these two items it will also assist in ensuring that we contribute progressively to the National Environmental Management: Waste Bill by keeping our environment clean.
- This bill should also be able to assist us as government employees and low income earners in general to be able to afford houses. The very high property price makes it very difficult for the employed to afford decent houses. The state is contributing R 500-00 for housing but you will get today a decent house costing R 300 000-00 and the monthly installment will not be less than R 3 800-00 per month for the loan one will be taking. Currently it is not easy for us who are employed to afford these houses and it is becoming more and more difficult.
- There must be a way of reasonably regulating property prices especially residential property.

Inputs made by: **Khathazile T along**  
**De Aar - N. Cape**

cell: 083 8842 858

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DATE: 28 May 2008

**PORTFOLIO COMMITTEE ON DEPARTMENTAL LOCAL GOVERNMENT,  
HOUSING AND PROVINCIAL AFFAIRS**

Report on the Negotiating Mandate: Housing Development Agency Bill (B1B-2008).

**1. TERMS OF REFERENCE**

The Housing Development Agency Bill was referred to the Portfolio Committee on Departmental Local Government, Housing and Provincial Affairs for consideration.

**2. BRIEFING**

On the 26<sup>th</sup> May 2008 a permanent delegate (Hon.P.Moatshe) of the NCOP briefed the committee on the above mentioned Bill. Mr M.Mati from the Legal Unit of the North West Provincial Legislature was also present.

**3. PROPOSALS**

The Portfolio Committee after having deliberated on the Bill came up with the following proposals:

- a. The North West Province has always been experiencing problems with the available Housing Agency in the Province. The Committee needed to be clarified if the Housing Development Agency is going to replace the North West Housing Corporation which has been a problematic Agency in the Province and how will the National Agency link with these Provincial Agency.
- b. The Bill does not come clear with regard to issues of accountability in the Provincial Level. This matter should be clarified in the same bill.



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- c. The draft Bill was drafted last year August 2007 and the same Bill was referred to the Province in May 2008; this raises a serious concern to the public because it seems as if they are only consulted to rubberstamp something which has been finalized by the National Parliament.
- d. The Committee also wanted to submit that the public deemed it necessary to have Provincial Representatives of the Chief Financial Officers and one representative from the House of Traditional Leadership as Board Members of the Agency.
- e. Clause 06, Acquiring privately owned land has caused problems before and the Committee wants to know how the National Government will succeed in getting control over privately owned land. The acquiring of land should be specified in the Bill to clarify if the housing funds are going to be channeled from the National Government rather than in the Provincial Government as it has always been the case.
- f. There is currently a process of Appropriation Bill which is aimed at moving privately owned land from the hands of the State; the Committee wants to know why the Housing Agency Development Bill is referring to Expropriation Act of 1975.
- g. Clause 07, the concern of the Committee is with regard to the role of the Department of Housing in the Province if the Agency will deal with the uncompleted housing developments.
- h. Clause 08, the Committee submits that the period to review the Mandate of the Agency should be reduced from five years to two/ three years.
- i. Clause 09 should clarify the role of the Provincial MEC if the Bill allows for further member to be designated by Minister of Provincial and Local Government.



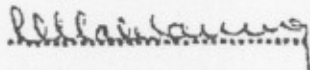
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**4. Conclusion**

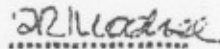
The Portfolio Committee on Developmental Local Government, Housing and Provincial Affairs and the communities of the North West Province agreed to support the Bill with the provision that the above proposals are duly considered.

**Signed**



**Hon.L.R.M.Mahlakeng**

**Chairperson: Departmental Local Government, Housing and Provincial Affairs**



**Hon.T.Modise**

**Speaker: North West Provincial Legislature**



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

**KWAZULU-NATAL PROVINCIAL LEGISLATURE**

**TO: THE CHAIRPERSON,  
NATIONAL COUNCIL OF PROVINCES**

**NEGOTIATING MANDATE**

**PROVINCE : KWAZULU-NATAL**  
**BILL : HOUSING DEVELOPMENT AGENCY BILL  
[B1B – 2008]**

**PROVINCIAL PROCESS :**

Provincial Portfolio Committee/s : Housing Portfolio Committee  
Portfolio Committee meeting date/s : Tuesday, the 10<sup>th</sup> of JUNE 2008  
Provincial NCOP meeting date/s : Tuesday, the 10<sup>th</sup> of JUNE 2008  
Consultation : Parliamentary Legal Advisors, Special & Permanent Delegates

**MANDATE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:**

The Provincial Standing Committee on National Council of Provinces Matters met today, Tuesday, the 10<sup>th</sup> of June 2008, & agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to *support* the Housing Development Agency Bill [B1B-2008] subject to the following amendments:

- Insert definition of "relevant authorities – means the provincial local government and traditional authorities"

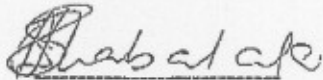
- On page 4, Clause 3 (2) refers to the operation of the Agency as a national public entity with its executive authority vested in the Minister. What will be the relationship between the Agency and the Provincial Dept. of Housing? Are there going to be provincial offices of the Agency? What is the organizational structure of the Agency?
- Clause 4(1) (c) – to be deleted
- Clause 5(1) – “The Agency must, [after] in consultation...”
- Clause 5(3) – “The Minister in consultation with relevant MEC, may where there is a lack of capacity.....”
- Clause 5(5) to be inserted:  
“(5) This Act does not replace or supersede the powers of all spheres of government in relation to housing development and planning.”
- Clauses 6(2) and (3) – should be deleted;
- Clause 7(1) – “The Agency must in consultation with the relevant authorities : “
- (a) – “...to be approved by the [Minister] MEC [after] in consultation with the relevant authorities...”
- Clause 8(1) – “The Minister, after consultation with MINMEC, must conclude...”
- On page 6, clause 8 (4) refers to the mandate between the Minister and the Agency that must be reviewed every five years. However, on page 7 clause 12 (7) (a), a non-executive member of the Board holds office for a period not exceeding three years. In the event of all Board members vacating office at the expiration of their term of office, what happens to that mandate? The recommendation is that the two periods be the same.
- Insertion of Clause 9 : “9(1) The Agency shall ensure that it does not act in a manner which undermines the functions and/or activities of provincial and local government  
(2) The Agency shall co-ordinate its activities with all stakeholders in such a manner so as to ensure prompt and efficient performance of the objects of the Act.”  
Clause 9(2)(b)(iii) – “a member designated by the Minister responsible for Provincial and Local Government and/or Housing, to serve...”  
Clause 32(2) – The Minister [may] must, after consultation with the Agency, provincial MEC's and Parliament,....”
- On page 16, clause 4.2 refers to the opinion of the State Law Advisers, does this Bill in anyway affect traditional land and/or land under the control of Amakhosi? If so, to what extent? — ✱



The delegation is further mandated to consider any additional amendments, providing that-

- 1) the amendment/s does/do not alter the essential elements of the Bill; and
- 2) consensus is reached on the proposed amendment/s by the KwaZulu-Natal delegation.

PROVINCIAL ENDORSEMENT



**Ms L F Shabalala**  
**CHAIRPERSON :**  
**KWAZULU-NATAL STANDING COMMITTEE ON**  
**NATIONAL COUNCIL OF PROVINCES MATTERS**

Tuesday, the 10<sup>th</sup> June 2008

DATE