



**GAUTENG**  
LEGISLATURE  
Your View ~ Our Vision  
OFFICE OF THE SPEAKER

13 June 2008

The Chairperson of the NCOP  
Honourable M J Mahlangu  
National Parliament  
P. O. Box 15  
Cape Town  
8000

Dear Hon. Mahlangu

**RE: MANDATE TO THE GAUTENG DELEGATION**

In terms of Section 65 of the Constitution of the Republic of South Africa Act, (Act 108 of 1996), the Gauteng Provincial Legislature adopted the attached report which contains a mandate to our delegation in respect of the following bill:

1. Housing Development Agency Bill [B1B-2008] – section 76.

Yours faithfully

**MR R M MDAKANE:**  
**SPEAKER**

**GAUTENG PROVINCIAL LEGISLATURE**

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**RESOLUTION**

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Tuesday, 12 June 2008

I, the Speaker, Mr R M Mdakane, hereby table the following resolution in terms of Rule 38 (1)

**That this House adopts:**

the report of the Portfolio Committee on Housing on the Final Voting Mandate to the Housing Development Agency Bill [B1B-2008] Section 76, as recommended.

  
**PROPOSER: MR R M Mdakane**  
**SPEAKER**



**HOUSING PORTFOLIO COMMITTEE  
ADOPTED FINAL VOTING MANDATE  
OF THE HOUSING DEVELOPMENT AGENCY BILL [B1B-2008]**

**(Section 76)**

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**06 June 2008**

**1. INTRODUCTION**

The Chairperson of the Housing Portfolio Committee, Mr. C G Tsotetsi, tables the Committee's Final Voting Mandate on the Housing Development Agency Bill [B1B-2008], Section 76 Bill.

**2. PROCESS FOLLOWED**

The Speaker formally referred the Housing Development Agency Bill [B1B-2008], a Section 76 Bill to the Housing Portfolio Committee for consideration and report in terms of Rule 232 (1)(a) read with 235(4), (6) and (7) on the 12 May 2008. The Chairperson, Mr Godfrey Tsotetsi, tables the Final Voting Mandate on the above-mentioned Bill as follows:

On the 15 May 2008, the NCOP Permanent Delegate, Member Abram Mzizi briefed the Committee on the Principle and Objects of the Bill. This was followed by the Committee Researcher's presentation on the analysis of the socio-economic impact of the Housing Development Agency Bill. The Department of Housing also made its submission on the Bill in this Committee meeting.

In keeping with Legislature's constitutional mandate of promoting and facilitating public participation in the law making process, the Portfolio Committee conducted a Public Hearing on the referred Bill at the Johannesburg City Hall on Thursday, 22 May 2008.

The Committee obtained a Legal opinion on the Bill from the Legal Unit of the GPL on the 23 May 2008.

On 23 May 2008, the Committee deliberated on the Bill and adopted the negotiating Mandate on the Housing Development Agency Bill [B1B-2008], Section 76 Bill.

On 06 June 2008 the Committee deliberated on the Bill and adopted the Final Voting Mandate on the Housing Development Agency Bill [B1B-2008], Section 76 Bill.

The Committee also deliberated on responses received from the National Department of Housing on concerns and recommendations made on the Bill and these were satisfactorily.

### **3. PRINCIPLE OF THE BILL**

To establish the Housing Development Agency; to provide for its functions and powers; and to provide for matters connected therein.

#### **OBJECTS OF THE BILL**

- Identify, acquire, hold, develop and release state and privately-owned land for residential and community purposes and for the creation of sustainable human settlements;
- Project manage housing development services for the purpose of creating sustainable human settlements;
- Ensure that there is centrally coordinated planning and budgeting of all infrastructure required for housing development and;
- Monitor the provision of all infrastructure required for housing developments.

### **4. FINANCIAL IMPLICATIONS AND SOCIO-ECONOMIC IMPACT ASSESSMENT OF THE BILL FOR THE PROVINCE**

#### **4.1. FINANCIAL IMPLICATIONS**

The financial implications of the Bill have not been finalised yet.

Nonetheless, the Department of Housing is budgeting for the operational cost of the Agency, therefore there must be a clear indication as to:

- With effect from which financial year; and
- The Estimated financial implication year-on-year.

Since the Housing Development Agency is a Special Purpose Vehicle, the respective organs of State will be responsible for the funding of projects undertaken by the Agency on their behalf. (ie. as per their respective Agency Agreement) and it has to be noted that it takes a minimum of 18 months as per the PFMA to register a public entity.

#### **4.2. SOCIO-ECONOMIC IMPACT**

With regards to the socio-economic impact of the Bill the Gauteng Department of Housing welcomes the Bill as:

- This Bill contributes to the realisation of the Comprehensive Plan for the Development of Sustainable Human Settlements (BNG) as the rapid release of well located land is a key cornerstone and there has been bottle-necks in this regard.

- The Bill is in essence, an enabling law that will support the government's program of eradication of informal settlements and accelerating land acquisition and development.
- The Agency will offer assistance through its skill and expertise to any organ of state where there is a lack of capacity to acquire and develop land for housing.
- The Agency will further serve as a catalyst to social cohesion, racial integration, job creation and economic growth.
- The HDA will be an agent to the organs of state such as municipalities and provincial departments as per the envisaged agency agreement.

## 5. COMMITTEE POSITION

The Housing Portfolio Committee supports both the principle and details of the Housing Development Agency Bill [B1B-2008] – Section 76.

The Committee deliberated on the responses by the National Department of Housing to the Select Committee on Public Service as follows:

- The National Housing Act, 1997 (Act No. 107 of 1997) clearly spells out the responsibilities of the various spheres of government in relation to housing delivery as well as the general principles applicable to housing development and this then addresses the concern regarding potential conflict in respect of the roles and relations between the HDA and the Provincial Governments. The real objective and purpose of the HDA is to assist any organ of the state where there is lack of capacity and not to take over the roles and responsibilities of other spheres of government.
- Provisions of Clause 7: 3(a)(b)&(c) in relation to the 'Functions of the HDA' regarding its role in housing development plans do not seem to take into account the Municipal Housing Development Plans (MHDPs) & IDP's. The response in this regard is inadequate as the Committee is not aware of the proposed amendment to clause 7 of the Bill by the Western Cape.
- The NDoH indicates that it is not the objective of the Agency to acquire and hold communal land under the jurisdiction of Traditional Leadership thus the Bill was not referred to National House of Traditional Leaders. The Human Settlement Development in such areas will remain the responsibility of the Provincial and Local Government except where the HDA is requested to assist due to capacity constraints. This response is still inadequate given a scenario where identified land in these areas might belong to traditional communities and this might pose a challenge towards the realisation of the Objects of the Bill.
- The NDoH confirmed that there was adequate consultation with stakeholders such as, Land Affairs, Public Works, Provincial Local Government, and SALGA.

The Committee notes the NDoH indication that the following issues will be covered by the regulations which will be referred to both houses of parliament for consideration and approval:

- The proposed amendment to the Housing Development Agency Bill [B1B-2008] once the Expropriation Bill is promulgated to ensure consistency of two statutes.

- The HDA complies with the Promotion of Administrative Justice Act, to avoid legal challenges.
- Clause 11(d): that might create opportunity for people who committed serious crimes such as murder, prior 1993.
- The HDA to curb potential invasion of identified land before it is released for housing development.
- The role of the Department of Land Affairs Provision on the expropriation of land by the HDA.
- The Bill should stipulate that the HDA will expedite the Geo-technical investigations on identified land to avoid housing development on dolomitic soil conditions and wetlands.

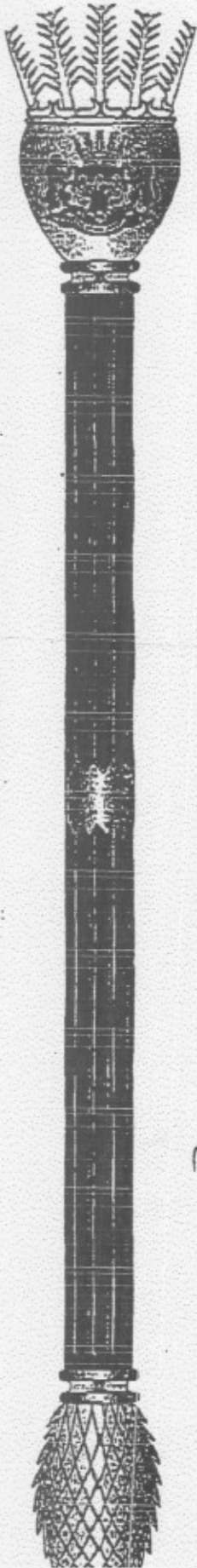
6. **FINAL VOTING MANDATE ADOPTED BY THE COMMITTEE**

The Housing Portfolio Committee supports the principle and details of the Housing Development Agency Bill [B1B-2008].

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# Limpopo Legislature

## OFFICE OF THE SECRETARY



**Physical Address:**

Lebowakgomo  
Government Complex

**Postal Address:**

Private Bag X9309  
Polokwane  
0700

10 June 2008

Ref.: 13/7  
Enquiries: NCOP Officer

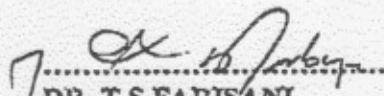
The Chairperson  
National Council of Provinces  
Box 85  
CAPE TOWN  
8000

### CONFERRAL OF VOTING MANDATE ON THE HOUSING DEVELOPMENT AGENCY BILL, 2008 [B1B-2008]

Please be informed that the Limpopo Legislature has at its Sitting held on Tuesday, 10 June 2008, at the Lebowakgomo Legislative Chamber, adopted the Report of the Portfolio Committee on Local Government and Housing on the Housing Development Agency Bill, 2008.

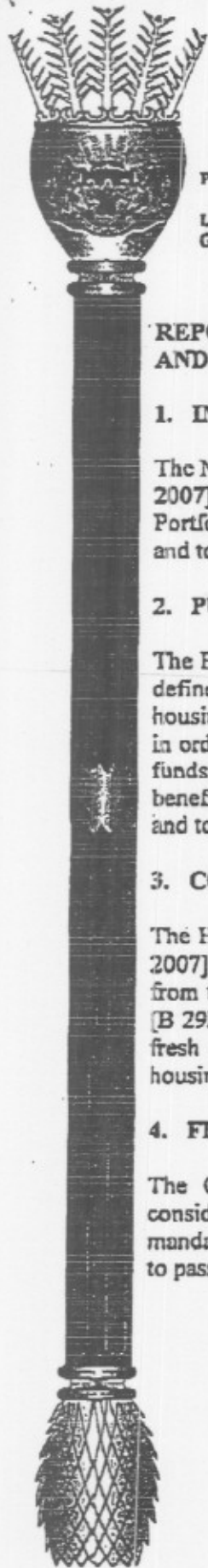
The House further resolved to confer a mandate to the Provincial NCOP Permanent Delegates to vote in favour of the Bill.

The Report of the Portfolio Committee is attached herewith for your easy reference.

  
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DR. T.S. FARISANI  
SPEAKER: LIMPOPO LEGISLATURE

# Limpopo Legislature

## OFFICE OF THE SECRETARY

**Physical Address:**

Lebowakgomo  
Government Complex

**Postal Address:**

Private Bag X9309  
Polokwane  
0700

### REPORT OF THE PORTFOLIO COMMITTEE ON LOCAL GOVERNMENT AND HOUSING ON SOCIAL HOUSING BILL [B 29D – 2007]

#### 1. INTRODUCTION

The National Council of Provinces (NCOP) referred the Social Housing Bill [B 29B – 2007] to the Limpopo Legislature and the latter subsequently referred the Bill to the Portfolio Committee on Local Government and Housing for consideration and inputs and to report to this august House.

#### 2. PURPOSE OF THE BILL

The Bill seeks to establish and promote a sustainable social housing environment; to define the functions of national, provincial and local government in respect of social housing; to provide for the establishment of the Social Housing Regulatory Authority in order to regulate all social housing institutions obtaining or having obtained public funds; to allow for undertaking of approved projects by other delivery agents with the benefit of public money; to give statutory recognition to social housing institutions; and to provide for matters connected therewith.

#### 3. CONSIDERATION OF THE BILL

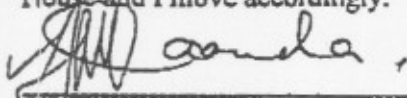
The House may recall that the Committee has already considered this Bill [B 29B-2007] and the final mandate was conferred in this regard. Having received inputs from the provinces, the NCoP Delegates, made further amendments that resulted in [B 29D- 2007] on the Bill for re-consideration by provinces and for the latter to send fresh mandates on the Bill. The Portfolio Committee on Local Government and housing considered the amendments on the Bill.

#### 4. FINAL MANDATE

The Committee supports the principle and provisions of the Bill and having considered the amendments, recommends to this august House to confer a final mandate to the NCOP Permanent Delegates to vote in favour of the Bill as amended to pass into law.



Honourable Speaker, I move that this report be adopted as the report of this august House and I move accordingly.



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HON. G. MOLEKWA  
COMMITTEE CHAIRPERSON

DE 068 SC P Service



Northern Cape  
Provincial Legislature

## OFFICE OF THE SPEAKER

Private Bag X5066  
Kimberley 8300  
Nobengula Extension  
Galeshewe  
Kimberley 8300

Fax: Admin (053) 839 8094  
Tel: (053) 839 8005

Date: 2008-06-10

The Chairperson  
National Council of Provinces  
Hon MJ Mahlangu

### FINAL MANDATE FOR THE HOUSING DEVELOPMENT AGENCY BILL [B1B -2008]

#### INTRODUCTION

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

#### PROCESS FOLLOWED

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**.

The Portfolio Committee received a briefing on the Bill from the Northern Cape's Permanent Delegate to the NCOP, Hon RJ Tau, at its meeting on **15 May 2008**.

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]*.

#### PUBLIC INPUTS ON THE BILL

The public hearings held were well attended by the members of the public.

The members of the public supported the Bill.

**COMMITTEE COMMENTS 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.

**WRITTEN INPUTS ON THE BILL**

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

**PORTFOLIO COMMITTEE POSITION AT THE NEGOTIATING STAGE**

The Portfolio Committee on Housing & Local Government supports the Bill.

The Negotiating Mandate was tabled on 28 May 2008 in the House. The Committee recommended 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 concerns raised by the Committee as well as those of the public.

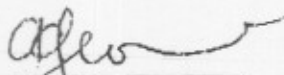
The House therefore conferred on the Permanent Delegates the authority to participate in negotiations and to raise the concerns expressed.

**COMMITTEE POSITION AFTER CONSIDERATION OF NEGOTIATING MANDATE BY THE NCOP SELECT COMMITTEE**

The Portfolio Committee's Negotiating Mandate indicated that the Northern Cape will support the *Housing Development Agency Bill [B1B - 2008]*.

**FINAL VOTING MANDATE**

In terms of Section 65 of the Constitution, the Portfolio Committee on Housing & Local Government recommends that the House confer authority on the Head of Its Delegation to the NCOP to vote in support of the *Housing Development Agency Bill [B1B - 2008]*.



HON. TSEPOENGWE  
SPEAKER

**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 olong**  
De Aur - N. Capc

cell: 083 8842 858