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The Chair
Portfolio Committee on Human Settlements

SHRA'S FURTHER PROPOSED AMENDMENTS TO THE WORKING DRAFT OF THE RENTAL HOUSING AMENDMENT BILL, BILL 21 OF 2011

INTRODUCTION

1. The Social Housing Regulatory Authority ("SHRA"), after having perused and carefully considered the present proposed amendments to the Rental Housing Act (as well as the existing provisions of the principal Act ("the Rental Act")),¹ intends to make further submissions, in the form of further proposed amendments to be incorporated in the current working draft of the Rental Housing Amendment Bill, Bill 21 of 2011 ("the Bill").
2. **In terms of Chapter 2 of the Principal Act, section 2 (3) provides that "National Government must introduce a policy framework, including norms and standards, on rental housing to give effect to subsection (1)". National Government has over the years introduced three rental housing options, namely Institutional, CRU and Social Housing. There is currently under discussion the development of a further sub programme dealing with deep down reach. It is the proposal of the SHRA that these government rental programmes be highlighted in the Rental Housing Act/Bill.**

We propose and all-encompassing definition be developed to cover these programme and in these regard we propose the term "state funded rental housing programmes".

The SHRA feel very strongly above the above proposal as the beneficiaries accommodated or targeted for the state funded rental housing programmes falls within the category of vulnerable groups and need protection from government in terms of legislation that will ensure that the developers and/or property managers of the projects funded or subsidized by government house the identified income groups, that the rentals escalations and deposits levied by the property managers are affordable and caters for the targeted income groups and that the tenants are treated fairly.

¹ Act 50 of 1999.

- 3 In terms of the Social Housing Act,² **the CRU policy** read together with the National Housing Code, the national government must, amongst other things, ensure the sustainable and viable growth of affordable social housing and furthermore, ensure secure tenure for residents in **state funded rental housing projects**, on the basis of the general provisions governing the relationship between tenants and landlords as set out in the Rental Act.³
- 4 Currently, and particularly within the context of **state funded rental housing projects**, there are no sufficient provisions in the Rental Act and/or the current rental legal framework which regulate and deal with the following critical aspects:
- 4.1 The relationship between **state funded rental housing programmes** and the broader rental housing environment in the rental housing market. This could be achieved by clearly defining '**state funded rental housing programmes/projects**' in the Rental Act, as well as qualifying the application of certain generic provisions contemplated in the existing Rental Act and the Bill.⁴
- 4.2 Absence of well-defined processes to determine the annual escalation of rentals in respect of **state funded rental housing projects**. Such escalation of rentals is important not only to ensure financial viability of projects and Social Housing Institutions (SHIs), but also to ensure that there is a 'uniform' rent level for units of comparable quality across the social housing sector. The failure to regulate this aspect has resulted in certain unintended consequences in the form of serious disparities, and sometimes exploitation of tenants in **state funded rental housing projects**, and this has largely been due to lack of clear principles.
- 4.3 Guidelines, processes and criteria to determine maximum rates for security deposits which may be required from **state funded rental housing** tenants, taking into account the specific objectives of the social housing programme, and the relevant needs of the qualifying 'beneficiaries', i.e. tenants.
- 4.4 The education of tenants on tenure provisions applicable to **state funded rental housing projects**, as this would be used as a precursor and form of protection and empowerment of the **state funded rental housing** tenants. To this end, **state funded rental housing programmes** and Landlords must encourage and support tenants in their efforts to fulfill their own housing needs through ongoing consultations and neighborhood involvement in a way that leads to the transfer of skills and empowerment.

²Act 16 of 2008.

³ See section 2 (1) (f) and (h).

⁴ For instance, in terms of section 5 (3) (c) of the Rental Act (read with 4B (2) (a) of the Bill), to require a deposit is allowed, and the actual deposit may not be more than the amount specified in the agreement, however, the Rental Act does not place a limit on the amount of the deposit. From the social housing point of view, this aspect requires proper regulation, by way of prescribing maximum rates of security deposits for tenants at different income levels.

- 4.5 Continuous and further education, training and information sharing with tenants on dispute resolution procedures and processes, taking into account the fact that **state funded rental housing projects** is based on, *inter alia*, mutual respect for the rights of tenants and landlords, and speedy resolution of conflicts and/or disputes that may arise.

5. PROPOSED AMENDMENTS

In the light of the foregoing, the following amendments are proposed:

- 5.1 Defining ‘**state funded rental housing projects**’- a rental or co-operative housing option for low to medium income households at a level of scale and built form which requires institutionalised management and which is provided by social housing institutions or other delivery agents in approved projects in designated restructuring zones with the benefit funding as contemplated in the Social Housing Act, 2008 (Act 16 of 2008).
- 5.2 Inserting an additional subsection empowering the Minister to make regulations dealing with the method for calculation of escalation of rentals in the social housing sector.
- 5.3 Inserting a further subsection enabling the Minister to prescribe a method for calculating maximum rate of security deposits applicable to each income group accommodated in the **state funded rental housing projects**.
- 5.4 Adding a further subsection dealing with the landlord’s contractual obligation/s to educate tenants about the implementation and proper functioning of the entire **state funded rental housing** framework and consult, empower and involve.
- 5.5 Further simplification of the dispute resolution processes and procedures, perhaps through regulations, in terms of which standard forms are designed and/or created in order to make the dispute resolution process easy, simple, accessible, and speedy, and as less formal and cost-effective as possible. This would be in the context of before a matter goes to the Rental Tribunal.

We trust that the above receives your favourable consideration.

Yours faithfully,



Brian Moholo
CHIEF EXECUTIVE OFFICER