



Inclusion of Co-operative Housing Approach to the Plethora of Policies and Legislation on Housing in South Africa

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Abstract: The major problem facing the South African government is the inability to increase the delivery of houses to the citizens amid fiscal constraint. To this end, a series of legislation and policies in housing have been put in place since the advent of democratic dispensation in 1994. If the approach of the government has shifted to demand driven, brought about by the needs of the beneficiaries, the question still remains why policies and legislation, such as the 2005 and 2009 Social Housing Policies and the Social Housing Act 16 of 2008 are antithetical to the co-operative housing subsector? It would have been expected that equal priorities and a level playing ground will be accorded to all the delivery options in order to have a rapid and efficient housing sector. The situation is however different due in part to the lack of awareness in terms of principles and processes involved in co-operative housing among both the public and government officials, thereby creating a huge gap in the rate at which the various delivery options have been providing houses. To this end, integration of relevant co-operative policies and legislation into the relevant housing policies and legislation is advocated in order to bridge the huge housing deficit.

Key words: Co-operative housing; Housing deficit; Housing legislation; Housing policy.

1.1 Introduction

South Africa has been very active in addressing significant issues in housing, including a severe shortage of housing stock and the low quality of living conditions. A national housing programme was introduced in

1994, which extended various types of subsidies to the low income households. The capital subsidy was sufficient for a secure plot, the installation of water and sanitation services and the construction of a basic house. This initiative resulted in

the building of 1.5 million new housing units between 1994 and mid-2003, with a further 300,000 under construction at that point. More than 2.2 million houses were delivered up to 2009; this figure has since risen to 2.8 million units in 2010. Despite the success of this ambitious programme, the country continues to face a substantial housing deficit, with the backlog in terms of need estimated at 2.3 million South African households in mid-2003 while in early 2010, the backlog was 2.1 million (Cities Alliance, 2003 cited by UN-DESA & UN-Habitat, 2004: 7; UN-Habitat, 2008: 3; NDoH, 2009: 17; Zuma, 2010: s.n.; Sexwale, 2010: s.n.; Ross, Bowen & Lincoln, 2010: 434).

Sexwale (2010a: 12) contends that the National Government is only able to clear the backlog at a rate of 10% per annum. Sexwale (2010a: 12) further states that the resources at the disposal of government, and mindful of the continued high population growth rate and the rapid pace of urbanisation, it could take decades just to break this backlog. United Nations (2004: 4), Napier (2006: 7) and Rust (2006: 4) show that in spite of the success recorded in the first 10 years in the provision of housing to the poor, there are a number of reasons impeding the

provision of housing that have contributed to the decline in the number of units built annually since 2000. These reasons for this decline as stated by UN (2004: 4); Napier (2006: 7-8); NDoH (2009a: 18) are highlighted below:

- The inability of the Social Housing Programme to deliver at scale;
- Non creation of satisfactory integrated housing environments;
- The withdrawal of the large construction groups from the low income market;
- High land costs in advantageous locations;
- Differences in the interpretation and application of the housing policy;
- Significant under-spending on budget for low-income housing by responsible housing departments brought about as a result of capacity shortages, especially at the municipal level.

Rust (2001: 65) states that the approach taken by the Government of South Africa in its housing policy arises from two perspectives. On the one hand, government seeks to address the housing crisis directly through the scale delivery of subsidised housing for low income households. On

the other hand, government seeks to create an environment conducive for the operations of the subsidised housing market within the larger non-subsidised market in order to foster growth in the economy. Rust (2001: 65) however, contends that since the policy was released in 1994, various emphases have shifted such as improving the potential for the introduction of a co-operative approach to low income housing. In 1999, the Government's focus shifted to alternative tenure arrangements, the needs of the poor and quality construction as against the earlier policy on housing that hinged on quantity. In spite of the Government shift in focus towards alternative housing delivery options such as co-operative housing, limited results have been achieved over the years and this has led to the stunted growth experienced in the co-operative housing subsector compared with other delivery options. In a related development, UN-Habitat (2011: 47) states that legal framework for the co-operative housing subsector has been a major impediment for its development and growth.

1.2 Housing Legislation and Policies in South Africa

The major problem facing the South African government according to Hassen (2003: 115)

is the inability to increase the delivery of houses to the citizens amid fiscal constraint. To this end, a series of legislation and policies in housing have been put in place since the advent of democratic dispensation in 1994. Prior to 1994, there were existing Acts such as The Housing Act 35 of 1920 which was to control the Housing Department of the Local Authorities; Urban Areas Act of 1923 that emphasised the establishment of three forms of accommodation; and the Group Areas Act of 1950 that provided for the enforcement of the policy of division in residential areas, among other Acts (UN-Habitat, 2008: 7-9). Section 26 of the Constitution of the Republic of South Africa (cited by Tomlinson, 2011: 420) establishes that citizens' right to have access to adequate housing is incontrovertible and in order to achieve this, government has to put in place legislative and other efforts within the government's resources constraints, to ensure the attainment of the right. Based on this, this section set out to examine the fulcrum on which the 1994 White Paper on Housing, the Housing Act (Act 107 of 1997), Breaking New Ground: 2004 Comprehensive Plan for Housing Delivery, Social Housing Policy of 2005, Social Housing Act 16 of 2008

and Social Housing Policy of 2009 is predicated.

1.2.1 The 1994 White Paper on Housing

The thrust of the 1994 White Paper on housing, as stated by Napier (2006: 4) and NDoH (2007: 9-11), was predicated on the following strategies:

- Stabilising the housing environment;
- Rationalising institutional capacities by defining the roles and relationships in the public sector;
- Housing subsidy programme establishment;
- Mobilising housing credit on a sustainable basis;
- Supporting Peoples' Housing Process (PHP);
- Ensuring the speedy release and servicing of land; and
- Co-ordinating government investment in development by maximising the effect of State investment and careful planning, in order for development in one investment to supplement the other.

Based on the above strategies, it would have been expected that equal priorities and a level playing ground will be accorded to all the delivery options in order to have a rapid and efficient housing sector. The situation is however different due in part to the lack of awareness in terms of principles

and processes involved in co-operative housing among both the public and government officials, thereby creating a huge gap in the rate at which the various delivery options have been providing houses.

1.2.2 The Housing Act (Act 107 of 1997)

The Housing Act (Act 107 of 1997) can be grouped into four areas according to Van Wyk (2009: 70) as indicated below:

- The rights of citizens to adequate housing;
- The interests of those citizens that find it difficult to provide their own housing needs;
- Promotion of integrated housing development which is economically, fiscally and financially affordable and sustainable; and
- Putting the housing market on a sound footing to be able to perform effectively and efficiently.

Van Wyk (2009: 70) further states that the Housing Act, apart from the above, also specifies the functions to be performed by all the spheres of government. One of such functions is that:

“It is imperative for the National, Provincial and Local spheres of government to encourage and support individuals and communities,

including, but not limited to co-operatives, associations and other bodies which are community-based, in their efforts to fulfil their own housing needs by assisting them in accessing land, services and technical in a way that leads to the transfer of skills to and empowerment of the community (The Housing Act 107 of 1997: 6)”.

In spite of the above cardinal function expected of all the spheres of government, the extent to which co-operative housing option is pursued by the government is limited (Rust, 2001: 143-163). Ambitious legislation and policies exist on housing in general, but the implementation leaves much to be desired. This also impedes on the growth and development of the co-operative housing subsector, in addition to the lack of support for co-operative housing in policies and legislation.

1.2.3 Breaking New Ground (BNG): Comprehensive Plan for Housing Delivery, 2004

The Comprehensive Plan for Housing delivery as indicated by SHF (2010: 7) was put in place in order to scale up housing in terms of the quality and location through a variety of housing programmes and projects. This

approach according to SHF (2010: 7) was to change from the earlier supply-centred approach to demand-centred approach necessitated by the needs of the beneficiaries. NDoH (2008: 31) states that BNG is predicated on nine elements as highlighted below:

- Provision of support to the whole residential property market;
- Shifting from just housing to sustainable human settlements;
- Building on existing housing instruments;
- Adjusting institutional arrangements within government;
- Building institutions and capacity;
- Defining financial arrangements such as widening funding flows;
- Creating jobs and housing by building capacity;
- Building information, communication and awareness by mobilising communities; and
- Establishing systems for monitoring and evaluation in order to enhance overall performance.

If the approach of the government has shifted to demand driven, brought about by the needs of the beneficiaries, the question still remains why policies and legislation, such as

the 2005 and 2009 Social Housing Policies and the Social Housing Act 16 of 2008 are antithetical to the co-operative housing subsector? The extent to which these policies and legislation impact on the subsector is not encouraging, as shown in subsections 1.2.4 and 1.2.5 below.

1.2.4 The Social Housing Act, No. 16, 2008

The Social Housing Act according to SHF (2010: 21) is the main piece of legislation for the social housing sector which is established in alignment with both the 1999 Rental Housing Act and 1997 Housing Act. The Social Housing Act is expected to achieve the following objectives as stated by NDoH (2008a: 10) and SHF (2010: 21):

- Establishing and promoting social housing environment that is sustainable;
- Establishing the roles of the various spheres of government in social housing;
- Providing for the establishment of the Social Housing Regulatory Authority (SHRA) and defining its role as the regulator of all Social Housing Institutions that have obtained or in the process of having obtaining public funds; and

- Providing statutory recognition to Social Housing Institutions (SHIs).

Apart from the definition of social housing that includes housing co-operatives in the Act, provisions are not made specifically for housing co-operatives. The implication of this is that the Act spells out everything that needs to be done as far as social housing is concerned in South Africa; hence, housing co-operatives are excluded. To buttress this assertion, during a presentation on 7 September 2011 by the SHRA on the draft Regulations to the Social Housing Act 16 of 2008, it was observed by the Portfolio Committee on Human Settlements that:

“...government as a whole promoted co-operatives, however the Social Housing Act did not really accommodate the structure, its method of operation or provide tenure options of co-operatives. The main objective of Social Housing was to provide affordable rental accommodation to low to middle income households. The emphasis was on rental accommodation. Co-operatives catered for the same target market, but the end result of the co-

operative process was that the co-operative member owned his unit. This difference caused tension in how the co-operative model tried to fit into the existing provisions of social housing. In terms of the legislation and regulations, it was a mistake to put co-operatives in the Act” (South African Portfolio Committee on Human Settlements, 2011: s.n.).

One may allude to the fact that it was not a mistake but a problem of how to forge an alliance between the rental and co-operative housing approaches as a result of what the government intends to achieve. The government believes that other avenues abound where individual ownership could be achieved, such as the Peoples’ Housing Process. If this is true, the government officials responsible for the implementation of housing programmes and the public need to be made aware of the potential of co-operative housing through advocacy by agencies such as South African Housing Co-operatives Association (SAHCA).

1.2.5 2009 Social Housing Policy

Social housing and its associated projects have been in South Africa since 1997 with the introduction of the institutional subsidy mechanism. The delivery models of social housing have been diverse and vary from pure rental, to co-operative housing, instalment sale options, and hybrids of these delivery models (NDoH, 2009: 6). Often, social housing is equated with rental housing in South African policy discussions (NDoH, 2005: 9; Charlton & Kihato, 2006: 266; Trusler & Cloete, 2009: 1097 and SHF, 2010: 19). The social housing programme of government is expected to fulfil two main objectives as indicated by NDoH (2009: 11):

- To contribute to the national priority of restructuring South African society in order to address structural, economic, social and spatial dysfunctions existing; and
- To improve and contribute to the overall functioning of the housing sector most especially the rental subsector.

The second objective is a further testimony of what constitute social housing in the South African context; this may be connected with the stunted growth experienced by co-

operative housing option. Efforts of policy makers are not encouraging in creating sustainable co-operative housing as a result of their actions or inactions. This statement is borne out of the statement that appeared on page 9 of the 2005 Social Housing Policy and page 18 of the 2009 Social Housing Policy as shown below:

“Primary and secondary housing co-operatives registered under the Co-operatives Act of 1981, and accessing funding through this programme will be considered together with the social housing institutions and will have to be accredited as social housing institutions. Separate guidelines, however, will be drafted to accommodate the specific nature, operations and regulatory requirements of the housing co-operatives”.

Four years after the first social housing policy was published, separate guidelines for housing co-operatives have not yet been drafted. Hence, it will become difficult for the housing co-operatives to access the social housing grant. Apart from this, the Co-operative Act of 1981 does not distinguish housing co-operatives from agricultural based co-operatives, which were predominant at that time; it was the Co-operatives Act 14 of

2005 that recognises other specialised co-operatives such as housing co-operatives. This further shows that minimal understanding exists for the agency responsible for the formulation of housing policies and legislation vis-à-vis co-operatives policies and legislation. This limited understanding may be connected with the low level of growth and development experienced so far in the co-operative housing subsector. Baumann (2003: 104) concludes that South Africa’s housing policy and delivery systems are usually formulated and implemented by people who have no direct bearing on the results expected and that only few developmental policies are based on the inputs of those that are expected to benefit from such policies. This may have been the case with the exclusion of co-operative housing in the Social Housing Policy.

In furtherance of the delivery of housing through social housing, it is hinged on the following principles (NDoH, 2009: 23-26):

- Promotion of the creation of well-managed rental housing option;
- Promotion of the creation of quality living environments for low income people;
- Create the enabling environment for the economic development of

low income communities in all aspects;

- Encourage the involvement of the private sector where feasible. This is laudable but housing co-operatives competing with private sector in getting social housing grant from the SHRA is near impossible to say the least. The housing co-operatives are up against a formidable force that could further emasculate the co-operative housing subsector. This is borne out of the fact that the private sector is better positioned in terms of preparing and submitting accreditation documents that will give it an advantage over the housing co-operatives;
- Promotion of the involvement of residents in the projects through information sharing, training and skills transfer; and
- Propel by all spheres of government.

In conclusion, good policies and legislation do not necessarily translate into action if the political will by the government officials that are to implement the policies and legislation is lacking. This is better encapsulated by the following statement of DAG (2009: 71):

“The case of the Rainbow Housing Co-operative is a clear example of how impressive policies and commitments on paper do not necessarily translate into action without the political will of government officials. For years and years, the Co-operative tried to get their voices heard. They set up savings schemes, called meetings, raised funds, lobbied the government but their situation remains the same despite all these efforts”.

Royston and Ambert (cited by UN-Habitat, 2006: 279) and Crofton (2006: 18) opine that the absence of a supportive legal framework has been one of the constraining factors in the development of a virile and sustainable co-operative housing subsector in South Africa. In a related development, Rust (2010) observes that the history of co-operative housing in South Africa has not been a good one (Personal communication with Kecia Rust on 25 May 2010). Similarly, Crofton (2010) indicates that Social Housing Foundation (SHF) facilitated and supported housing co-operatives at the initial stage but the role of SHF towards the housing co-operatives presently is non-existent (Personal

communication with Odette Crofton formerly with SHF now with the Housing Development Agency on 17 May 2010). It should be stated that based on the 2008 Social Housing Act, all the responsibilities of SHF have been taken over by the SHRA.

In all the policies and legislation on housing, there is no one that is explicitly for the co-operative housing like in the rental housing option. Co-operative housing is an appendage in both the Social Housing Act, 16 of 2008 and the Housing Code 2009 containing the Social Housing Policy. In essence, housing co-operatives have not been adequately catered for in legislative and policy documents. This is a cause for concern, though members of the housing co-operatives are expected to play a significant role in developing a virile and sustainable subsector, the efforts of the government in formulating policies and legislation beneficial to housing co-operatives is imperative.

1.3 Housing Challenges in South Africa

In spite of the efforts of the South African Government in the provision of adequate housing since 1994, the housing sector is still beset with challenges as highlighted by Hassen (2003: 151-152), Rust (2003: 21), Pottie (2004: 616),

Li (2006: 70-71), Goebel (2007: 293-296), Burgoyne (2008: 40-44) and Van Wyk (2009: 40, 95-96) below:

- Lack of capacity to deliver as a result of government's inability to develop workable policies due to inadequate funding, poor data collection systems and monitoring;
- Little attention given by the government to non-subsidised efforts;
- Lack of capacity particularly in the municipalities occasioned by a crisis of human capital development;
- Lack of availability of well-located land;
- Government restructuring of urban policy rather than decentralisation which would have increased economic efficiency and political accountability and by extension, a reduction in poverty;
- The extent and high rate of urbanisation resulted in the proliferation of informal settlements and unplanned peri-urban growth;
- Pre-democratic legacies and inequalities persist resulting in the continuous unequal quality of services, housing and the urban environment; and

- Absence of sustainability linkages that should have aided the economic multiplier of housing.

These challenges call for proactive measures on the part of government in order to stem the tide. Focusing on a delivery approach such as co-operative housing that has not been fully operationalized is imperative.

1.4 Moving Out of the Doldrums

Several studies (Munkner, 2001: 3; Sukumar, 2001: 147; Mitlin, 2001: 509; Sivam and Karuppanan, 2002: 69; UN-Habitat, 2006: 16; Mabogunje, 2008: 14; DTI, 2009: 25) have underscored the important role played by housing co-operatives, their potential in the process of housing development and implementation for the low-income group. Housing co-operatives as formal organisations are a recent phenomenon and their development has been very slow in most developing countries. Co-operative housing models according to UN-Habitat (2011: 47) are still at their developmental stages in South Africa but are seen as a major alternative to the other delivery approaches.

Housing is one of the areas in which co-operatives can play a leading role as a result of their long experience in promoting

sustainable development and reduction of poverty by providing sustainable livelihoods, promoting partnerships and building capacity. However, to achieve this, according to Munkner (2001: 3), co-operatives need an enabling environment, appropriate legislation and government policies, which acknowledge the unique roles co-operatives (either member-owned, or member-controlled or self-help) play in the housing delivery process. Specifically, co-operatives follow set principles and methods that require autonomy and independence from governmental controls in order to be successful (Munkner, 2001: 3). Onukwugha (2000: 7) indicates that the need for housing co-operatives originates from the fact that most housing problems in the developing countries can only be solved within the framework of viable, integrated and self-administered communities. To buttress this assertion, Blair (cited by the Confederation of Co-operative Housing [CCH], 1999: s.n.) states that:

“Too much has been imposed from above, when experience shows that success depends on communities themselves having the power and

taking the responsibility to make things better”.

The importance of encouraging the institutionalization of housing co-operatives as the most practical way of providing housing for the low income group cannot be overemphasized. The challenge relative to the desired outcome is often with respect to mobilizing and organising the population concerned and availability of expert guidance relative to durability, quality, safety and security of the built houses (Mabogunje, 2008: 14). Bliss (cited by Murray, 2010: 2.n.) alluded to this by stating:

"If we want a strong co-op and mutual housing sector, the political and social will needs to be there. Now may be the right time, as the other housing alternatives are cracking at the seams. The existing framework in both housing associations and local authorities is not stimulating the kind of communities and self-reliance and independence that it ought to be”.

The above citation is an indication of the failure of the other delivery approaches (UN-Habitat, 2006: 279) and the need to encourage the development and growth of co-operative housing approach through the

conscious efforts of the government in formulating beneficial policies to co-operative housing. Anonymous (2005: 2-3) highlights the need to explore co-operative housing models in South Africa as alternative to other housing delivery approaches in the following statement:

“There are also significant complaints from housing beneficiaries around the quality, size and location of the units that have been constructed and the fact that neither the beneficiaries nor the market recognize these houses as social or financial assets. It is clear from what has just been said that we need ways of addressing all of these issues and the co-operative housing models are certainly appealing options, which can and do help to address these problems”.

Based on the above, adopting co-operative housing delivery could not have come at a better time than now, when there have been cases of people selling off their Reconstruction Development Programme (RDP) houses and the need exists to reconstruct or rectify 40, 000 out of the 2.3 million houses built (Hamlyn, 2010: s.n.). Hence, to bridge the housing deficit being

experienced, co-operative housing option should be in the front burner and what better way to start this than by having policies and legislation that are beneficial to the co-operative housing subsector?

1.5 Conclusion

The housing situation has been discussed and some of the legislation and policies on housing also highlighted. None of the legislation and policies on housing in South Africa is exclusively for the co-operative housing option, like the rental option; rather the co-operative housing approach is an appendage in all the policies and legislation on housing. Legislation and policies may be the best in the world in terms of

the content but if there is no political will to make it work, it becomes an effort in futility. The need to carry the beneficiaries along is imperative, as the input of such people will make the policy or legislation more robust, because the people know where the problem lies. In essence, the absence of appropriate policies and legislation beneficial to the co-operative housing subsector has been an impediment in the number of houses provided by the housing co-operatives. This, in part is caused by the non-integration of relevant co-operative policies and legislation into the relevant housing policies and legislation.

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