



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF
CO-OPERATIVE GOVERNANCE,
HUMAN SETTLEMENTS & TRADITIONAL AFFAIRS

RESEARCH REPORT ON

***HOUSING NORMALISATION IN THE
CONTEXT OF ILLEGAL OCCUPATION OF
RDP HOUSES***

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ABSTRACT

In their preliminary report, titled, Redesigning South African democracy; the future of Human Settlement in Limpopo Province, the Housing Advisory Panel identified a number of challenges that affect the process of housing Provision in the province. One of the challenges has got to do with what they call a restrictive informal settlements intervention plan. Flowing straight from the plan is the problem of incorrect occupants. This is the problem that dogged the housing delivery program since 1994.

Literature review in this study reveals that a sizable number of houses are occupied by people who are not the actual beneficiaries of the houses. It has been found out that post occupation monitoring to ensure that the right beneficiaries remain in the housing units for the required minimum period poses a challenge. There is serious lack of information on the part of beneficiaries which may lead to rightful occupants renting or selling their allocated units. The study seeks to investigate incidences of the illegal occupation of the RDP houses in the province.

1.1.INTRODUCTION.

Chapter 2 of the Constitution of the Republic of South Africa, 1996, hereinafter referred to as the Constitution, stipulates that everyone has the right to have access to adequate housing. Section 26(2) of the Constitution further states that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

As this right is being implemented as envisaged, shortcomings and deviations from policy provisions were encountered. Some deviations relate to illegal occupation of these houses. This study seeks to investigate incidences of illegal occupation of RDP houses in selected areas of selected municipalities in Limpopo.

Illegal occupation of RDP houses is a phenomenon which is as old as the RDP houses themselves. This practice can be traced as far back as 1994 when the first houses were built. The illegal occupation of Nelson Mandela Bay RDP houses is said to be out of control, with a preliminary audit report revealing that as many as 30% of them could be illegally occupied.

According to the report, in one case, a woman who is a legal beneficiary of an RDP house, has been fighting a losing battle to gain occupancy of her house in Motherwell since 2002, even though she holds the legal property title deeds.(Duncan Alfreds, News 24).

There are also incidences of illegal occupation of houses in Limpopo Province with prevalence in urban centers where job seekers are concentrated. These areas include Nancefield in Musina, Westernburg in Polokwane Municipality, Tubatse in Burgersfort as well as Tshikota in Makhado.

Numerous attempts have been made by the department to normalize the situation but the problem persists. The department commissioned a study or investigation by a company called Servcon back in 2007, on the prevalence of illegal occupation of RDP houses in Limpopo. A study was completed and the findings are with the Department.

1.2.The PROBLEM STATEMENT.

Section 26 of the Constitution of the Republic of South Africa, 1996, states that everyone has the right to have access to adequate housing. It is the government's duty to take reasonable legislative and other measures, within the available resources, to achieve the progressive realisation of this right.

Since the democratic elections in April 1994, government has adopted two developmental programmes: the Reconstruction and Development Programme(RDP) and the Growth, Employment and Redistribution Programme(GEAR). Both programmes seek to co-ordinate government's development efforts into a broad framework of interventions, in pursuit of a common vision of reconstruction, development, growth, employment and redistribution.

In the light of the afore-mentioned, the broad roles for each sphere of government are as follows:

- National government must establish and facilitate a sustainable national housing process.
- Provincial government must create an enabling environment, by doing everything in its power to promote and facilitate the provision of adequate housing in its province within the framework of national housing policy.
- Municipalities must pursue the delivery of housing. Every municipality must take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to ensure that the

housing right as set out in the Constitution is realised. It will do this by actively pursuing the development of housing, by addressing issues of land, service and infrastructure provision, and by creating an enabling environment for housing development in its area of jurisdiction (Housing Code).

In responding to the provisions of the Constitution government is under an obligation to provide housing opportunities to the needy. In the process of achieving the realisation of the right to adequate housing, some unintended consequences are encountered. Some of these consequences come in the form of illegal occupation of the houses built by government. It is therefore the intention of the study to investigate incidences of illegal occupation of RDP houses in selected municipal areas of Limpopo province.

1.3. RATIONALE FOR THE STUDY

The rationale for the study is to contribute to the available knowledge regarding the illegal occupation of RDP houses in Limpopo province. Several studies have been conducted in the Province regarding the illegal occupation of RDP houses but the current study will only concentrate on areas hitherto investigated. This situation motivated the researcher to embark on a research study on the matter. The rationale, argued (O' Leary, 2010: 64) should convince the readers that the problem you want to address is worth exploring. The fact that the Department has not conducted any research in these areas makes it very important for a study to be done.

1.4 AIM OF THE STUDY

The general aim of the study is to investigate the incidences of illegal occupation of the RDP houses in selected areas of Limpopo Province with the aim of normalization of such.

1.5 RESEARCH OBJECTIVES.

The objectives of the proposed study are:

- (a) To investigate incidences of illegal occupation of RDP houses in selected areas of Limpopo.
- (b) To describe the nature and patterns of illegal occupation.
- (c) To determine challenges faced by the department in its attempt to normalize the situation.

1.6. RESEARCH QUESTIONS

- (a) Are there incidences of illegal occupation of RDP houses in Limpopo province?
- (b) What is the nature and pattern of illegal occupation?
- (c) What are the challenges faced by the department in trying to solve the problem?

1.7. RESEARCH DESIGN/METHODOLOGY

According to Leedy and Ormrod (2013:74) research design provides the overall structure for the procedure the researcher follows, the data the researcher collects and the data analysis the researcher conducts, simply put, research design is planning. The study undertaken is qualitative in nature. Semi-structured questionnaires were administered in the form of interviews. The responses formed the basis of an analysis. For the purposes of this study, it was inherently important for documentary analysis to be done. This is used essentially to collect primary data from the departmental archival material, reports, policies, strategic documents as well as policy statements by the Member of the Executive Council.

1.8. STUDY AREA

The study is located in five(5) districts of Limpopo Province. With one district providing one municipal area as an area of study. The focus of the study in the main shall be

beneficiaries of the low cost or RDP houses, municipal officials responsible for housing matters, community development workers or liaison officers. The sampling will be purposive.

1.9. POPULATION OF THE STUDY.

The population of the study shall be all housing development projects by the Limpopo Provincial government since the dawn of democracy in 1994. The sample was purposively and randomly selected from a municipality from each of the five(5) districts in the province.

1.0. ETHICAL CONSIDERATIONS.

The researcher shall, throughout the entire study conform to and be guided by the internationally accepted ethical standards of empirical inquiry. The principle of voluntary participation shall be observed to the letter. Participants take part in the study on a voluntary basis. The principle of informed consent wherein participants are not coerced into taking part is upheld. Participants are also made aware that taking part in the study will not risk putting their jobs the line or jeopardise their chances of progression in their respective careers. The principles of honesty, integrity and respect are an integral part of the study.

CHAPTER TWO.

LITERATURE REVIEW: ILLEGAL OCCUPATION OF RDP HOUSES.

2.1. INTRODUCTION.

This chapter seeks to provide a literature review regarding the illegal occupation of RDP houses in selected areas in Limpopo province. The literature review is undertaken to provide an understanding of the critical areas of the study that is being undertaken.

Illegal occupation of RDP houses is a relatively new phenomenon which can be traced to 1994 when the concept of RDP was hatched. It is in the light of this that not much has been written on the phenomenon in contemporary books. However, the researcher managed to extricate contemporary data from journal articles and other relevant media releases.

2.2. ILLEGAL OCCUPATION OF RDP HOUSES.

Numerous complaints have been received from members of different communities regarding rampant illegal occupation of RDP houses across the Province. The phenomenon is in fact prevalent across the country. Since 1994 the South African Government, through its National Housing Subsidy Scheme(NHSS) has embarked on the large-scale provision of state-subsidized housing to low-income households across the country. Over 2 million state subsidized houses have been built since 1994, predominantly in typical RDP or Breaking New Ground(BNG) housing projects. The delivery of these houses has been, and continue to be an important political drawcard in South Africa, forming part of the post-apartheid project to redress the historical, socio-economic injustices of apartheid.

However, despite gains made from 1994 in addressing backlogs, there is still a substantial housing backlog which has become one of the reasons for the mushrooming of local so-called “service delivery protests” across the country in recent years.(www.localgovernmentaction.org.za)

These backlogs that continue unabated, are a reason why homeless people in South Africa are caught between a ‘shack’ and an ‘RDP’ house. If they take matters into their own hands by invading and occupying houses illegally, they face the prospect of eviction with nowhere else to stay. If they wait for government to build them an RDP or BNG house, they may have to wait in their present housing environment in rural areas or in their parents house or in overcrowded backyard rentals, until government gets around to building a house for them and providing them with tenure security.

According to Online News24 channel, the illegal occupation of Nelson Mandela Bay RDP houses is reported to be out of control. The preliminary results of the Audit

submitted to the Nelson Mandela Bay Human Settlements portfolio committee has revealed a situation where in one area more than half of the houses audited were illegally occupied.

During March 2008, the department of CoGHSTA compiled a report and opinion on illegal occupation of housing properties in the Province. It was revealed in the report that numerous complaints were received from members of different communities regarding rampant illegal occupation of RDP houses across the Province. A list of those incidences was compiled and the problem was seen to be widespread across the province.

According to the report, several attempts have been made to address the problems. These problems range from illegal occupation of houses by people who are not real beneficiaries of these houses to selling of houses or renting by rightful owners.

Investigations have been conducted to verify rightful occupancy of these properties but due to the recurrent nature of the problem, a lasting solution to the matter has always been elusive. From time to time, the department instituted investigations, through the Anti-fraud and corruption unit with the aim of rectifying the anomaly. The investigations succeeded in solving a fraction of the problem in the short-term. But the perpetuity of the problem required the department to adopt a long-term approach in solving this conundrum.

This led to the appointment of a Task Team in 2004 to look into matters pertaining to Housing. The task team found out that most of the Housing units are occupied by people that are not necessarily beneficiaries of the houses. It is against this backdrop that the department commissioned the services of Servcon to physically verify the current occupants of some of the designated properties. Servcon conducted their studies and provided recommendations on what the Department should do. The implementation of the recommendations is yet to be done by the department.

3. RESEARCH DESIGN AND METHODOLOGY.

Research design is more concerned with the 'how' of the study the researcher is conducting. This is about selecting a type of study which best answers the research questions as formulated in Chapter one of this research study. It is important for researchers to present their design and methodological issues accordingly to ensure the validity and credibility of research findings. According to Leedy and Ormrod(2013: 74) research design provides the overall structure for the procedures the researcher follows, the data the researcher collects and the data analysis the researcher conducts, simply put the research design is planning. Mouton (2012: 49) argues that the research design addresses a key question: what type of study will be undertaken in order to provide acceptable answers to the research question or problem?

Research methodology on the other hand is concerned with methods, techniques and procedures that are employed in the process of implementing the research design or research plan. According to Babbie and Mouton (2003:49) scientists use a wide range of methods and techniques in empirical research. Methods used vary according to tasks they perform, from methods and techniques of sampling, data collection methods to methods of data analysis.

The selection of methods, and their application, are always dependent on the aims and objectives of the study, the nature of the phenomenon being investigated and underlying theory or expectations of the investigator. The term methodological paradigm is used to include both the actual methods and techniques that social researchers use, as well as the underlying principles and assumptions regarding their use.

The method of data collection earmarked for this study was interviews with the purpose in mind of using purposive sampling of Senior Managers and General Managers in the Department as well as in the selected Municipalities. Interviews were further planned for randomly selected beneficiaries of the RDP houses as well as those randomly selected from Municipality beneficiary list.

Disappointedly, this method proved unsuccessful given the bureaucratic quagmire which caught up with the targeted Senior Officials within the department and

Municipalities. These administrative bungles and the limited time allocated to the study made it completely inconceivable to proceed within the earmarked methodology.

It is against the backdrop of the afore-said that an alternative data collection method was opted for. According to Kanyane(2007:20) this procedural arrangement of shifting from one methodological approach to the other can be opted for even if it can drag the process and thereby affecting service delivery.

The qualitative research paradigm will be the suitable option under the circumstances. Munzhedzi (2011: 58) opines that, unlike a quantitative research approach, qualitative research relies on reasons behind certain behaviours and experiences of participants. It is in this context that this study attempts to investigate the 'why' and 'how' of the illegal occupation of the RDP houses in Limpopo. The quantitative paradigm of social inquiry is more interested in the investigation of the 'what', 'where' and 'when' aspects of the investigation.

3.1 DOCUMENTARY ANALYSIS.

It is against the backdrop of the afore-going that an alternative data collection method was adopted. For this purpose, documentary analysis was the research method followed to collect relevant primary data for the study. In this study, relevant documents in CoGHSTA, which were found to be helpful for the study and for the researcher to answer the research questions posed in Chapter one, were perused. These documents included the Strategic plan, Annual Performance Plan, Quarterly reports, Housing policy documents, Budget speeches as well as other provinces perspectives on the illegal occupation of RDP houses phenomenon.

3.2. REVIEW OF DEPARTMENTAL DOCUMENTS.

The departure point should be the report and opinion on illegal occupation of housing properties in the province generated by the department based on the housing normalization project done by Sercon back in 2007.

The housing normalization programme was necessitated by unpalatable practices that gripped the housing delivery phenomenon in the 2000's. numerous complaints have

been received from members of different communities regarding rampant illegal occupation of RDP houses across the Province. Several attempts have been made to address the problems. The problems range from illegal occupation of houses by people who are not real beneficiaries of these houses to selling of houses or renting by rightful owners. Investigations have been conducted to verify the rightful occupancy of these properties but due to the recurrent nature of the problem, a lasting solution to the matter has always been elusive.

The Task team was appointed during 2004 to look into matters pertaining to Housing. The task team found amongst other things, that most of the housing units are occupied by people that are not necessarily beneficiaries and they recommended that:

- The department should embark on a head count exercise on houses and verification on national database.
- Verification of legitimacy of beneficiaries ensuring they get properly allocated completed houses and
- Carefully prepared raids are embarked on for purposes of verifying actual occupants of those houses involving SAPS and SANDF.

It is against this backdrop that the department commissioned the services of Servcon to physically verify the occupants of some of the designated properties. The exercise was aimed at ensuring whether the occupants are indicated under the category of beneficiaries who were provided with low-cost and /or RDP type houses, as occupants in the available department database and/or determined in areas where the provided database is applied but such property not appearing on the departmental database.

It was agreed that Servcon will moreover submit recommendations on stipulated options for future use of each property stock not categorized under the regularization program. By the time this report was generated, Servcon was yet to submit a report which was due by end of March 2008. It is this report which was expected to encompass options for future use on other properties outside normalization program.

Servcon finally submitted a report in March 2008. It is this report that embodies in an accurate and consolidated manner, issues related to illegal occupation of RDP houses in Limpopo. It would not be of great importance to undertake another study on the same subject matter before the findings and recommendations presented by Servcon are taken into consideration. It is for this reason that the report by Servcon is attached for easy reference.

3.3 HOUSING POLICY CONTEXTUAL FRAMEWORK

Section 26 of the Constitution of the Republic of SA, 1996, state that everyone has the right to have “access to adequate housing” It is the government’s duty to take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.

Since the democratic election in April 1994, government has adopted two developmental programs. The Reconstruction and development Program (RDP) and the Growth, Employment and Redistribution. The RDP sets out a clear vision for housing, based on the Following four Programs.

- Meeting basic needs
- Developing Human Resources
- Building the Economy
- Demarcating the state and society

Our Housing Policy finds its roots in the National Housing Forum, a multi-party non-governmental negotiating forum, comprising members from government, business and community and development organizations.

The housing Code represents the Culmination of Government’s thinking and Practice as it relates to housing in South Africa. The Housing Code is the home for all national Housing Policy, Current and Future. Housing is an area of con current competence for nation and provincial government. This means that Provincial government can legislate in respect of the Housing matters that fall within its Provincial Boundaries as long as such legislation does not undermine national legislation.

The primary role of the Provincial government is to promote and facilitate the provision of adequate housing in its province, within the framework of the national Housing policy.

The provincial government therefore provides adequate housing in accordance to the national housing programs as enriched in the housing code. And they are namely:

- The housing subsidy scheme
- The Discount Benefit Scheme
- The Public Sector Hostels Redevelopment Program

There are six subsidy mechanisms that together comprise the housing subsidy scheme.

- Project linked subsidy Scheme
- Individual Subsidy Scheme
- Consolidation Subsidy scheme
- Institutional scheme
- Relocation assistance and rural subsidy

Application for subsidies are therefore made in accordance to the above mentioned scheme and be submitted to Provincial Housing Development Board. When individual subsidies are linked to credit, application can be submitted to accredited financial institutions. The Project-linked, Consolidation, Institutional and Rural subsidies can also be accessed via the People's Housing Process.

Housing Subsidies are paid out of the nine Provincial Housing Development Funds after approval by Provincial Housing Development Boards or accredited municipalities.

3.4 ELIGIBILITY CRITERIA

A person Qualifies for a Housing Subsidy if they fulfil the following eligibility Criteria.

- He or she is married or cohabits with any other or is single and has proven financial dependents.
- He or she is lawfully resident in South Africa
- He or she is legally competent; he or she is over 21 years of age if not married

- The gross monthly household income of his or her household does not exceed R3500 per month
- The beneficiary of spouse has not received a subsidy from the government to buy a house previously.
- He or she is first time property owner.

3.5 RESTRICTION ON STATE-SUBSIDIZED HOUSING.

Section 123.1 of the Limpopo Housing Act, 2006 Provides hat no person granted a housing subsidy in terms of national or provincial housing program for the construction or purchase of the dwelling or serviced site, may sell, let, pledge or otherwise encumber such person’s dwelling or site for a period of eight years from the date on which the property was acquired by that person.

It went further to warn that a person who contravenes sub-section (1) is guilty of an offence.

Sub-section (4) provides that when a person surrenders the property, the Department is deemed to be the owner of the property. The Department must make an application to the Registrar of Deeds for the tittle deeds of the property to be endorsed to reflect the Department’s ownership of the property.

3.6 RESTRICTIONS ON SALE OF STATE-SUBSIDIZED HOUSING

Section 14.1 of the Limpopo Housing Act, 2006 provides that “it must be a condition of every housing subsidy granted to a person in terms of any national or provincial housing program for construction or purchase of dwelling or serviced site, that such person’s successors in tittle or creditors in la, must not sell or otherwise alienate his or her dwelling or site unless the dwelling or site has been offered to the Department.”

The offer to the Department must be made in writing and must be accepted or rejected by the MEC within a period of 60 days from receipt thereof, as espoused in sub – section 2 of the act.

4 RECOMMENDATIONS

This report recommends that Servcon Housing Solutions, a private company established in June 1995 in terms of (ROU) Record of Understanding between government and Association of Mortgage lenders, after the completion of their pilot project on the four (4) areas listed in the background.

And when Servcon has provided a full report to the Department (and to the Department's satisfaction) be granted an opportunity to extend their normalization programme to other areas prioritized by the Department.

That Servcon submit recommendations on stipulated options for future use of each properties stock not categorized areas reports in this report shall be comprehensively covered.

Municipalities should start to assert themselves in so far as Housing matters in their local areas are concerned. Some of the problems could have been solved a long way back had municipalities been as equal to the task as it relates to housing matters. Monitoring and evaluation of complete projects is absent hence the illegal occupation and selling of these Houses. After handing over, municipalities should take charge of beneficiary validating exercises in their ongoing Monitoring mandates.

CONCLUSION OBSERVATIONS

The illegal occupation and selling of RDP houses is fast becoming one of the most rampant crimes afflicting our province in recent times. It is worth noting that a person who contravenes the provisions of the Limpopo Housing Act and sell, let, or illegally occupy a dwelling or site is guilty of an offence and can be charged as such. The completion of the Housing normalization pilot project and their recommendations is awaited with abated breath. We anticipate that such recommendations might go a long way in also solving other problems permeating the department on a daily basis.