INTERIM POLICY ON TENANCY MATTERS OF COUNCIL HOUSING RENTAL STOCK

APPROVED BY COUNCIL : 27 MAY 2009

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INTERIM POLICY ON TENANCY MATTERS – JULY 2006 (AMENDED MAY 2009)

1. PREAMBLE:

The Housing Act 1997 (Act No. 107 of 1997) makes no provision for the management of public rental stock by Municipalities. Nonetheless, appropriate eligibility criteria and income limits applicable to existing National Housing Programs have been used as guidelines for transfer of tenancies in respect of the City's rental stock.

The National Phasing in of Fair Rentals and Loan Terms Program defines parameters for the restructuring of rentals with emphasis on phasing out former dispensation subsidies over a period of five years and the introductions of market related or cost recovery rentals.

The Rental Housing Act 1999 (Act No. 50 of 1999) defines government's responsibility in respect of rental housing property and sets the framework in which rental housing must operate in South Africa. The rights and responsibilities of landlords and tenants as provided for in the Act have been incorporated in the City's new standard lease agreement.

2. PRINCIPLES:

2.1 The Municipality renders a fair and efficient service to its housing tenants.

2.2 There should be fair allocation of rental stock according to set and agreed procedures.

2.3 All existing public housing will be regarded as such, with no third party having influence on any allocation.

2.4 The lease automatically terminates on the death of the tenant. The matter is then dealt with in terms of the policy in respect of transfer of tenancies or unlawful occupation, whichever is applicable.

2.5 Transfer of tenancy will be considered to a prospective tenant who satisfies the eligibility criteria as set out in Clause 4. In addition the following criteria will be taken into account:

2.5.1 Consensus among the household members as to who should take over the tenancy.

2.5.2 Must be part of the original family household, born into the family or legally adopted.

2.5.3 Duration of stay – interrupted or uninterrupted. Determine who had the least interrupted stay.

2.5.4 Chronological age will apply i.e. the eldest person who satisfies the eligibility criteria as set out in Clause 4 will be considered for the tenancy.

2.6 Children of former tenants who moved into their parents' home.

2.6.1 According to section 3.5.1 of the approved Unlawful Occupation Policy, children of former tenants qualify for normalisation if they can prove that they had lived in the dwelling unit or on the premises with the tenant at some stage of the tenancy prior to the termination of the tenancy. The following has to be established:

- The relationship to the former tenant;
- Whether they are registered on the Council's waiting list;
- Whether they qualify in terms of the statutory requirements;
- Whether they are not existing tenants or have bought a property from the City or own other property elsewhere;
- Whether they at any stage during the tenancy lived on the property with the tenant;

- Where Council's records do not reflect this, the onus will rest on the children to provide suitable and acceptable proof of such occupancy;

2.6.2 If all of the above criteria have been considered and the persons still have equal claims to the tenancy, the matter must be referred to the Manager: Existing Housing.

2.7 The income limit for persons in occupation of an existing rental property shall be a household income not exceeding R 10 000 p.m. as categorized under the eligibility criteria.

2.8 Prospective tenants and tenants transferring to alternative accommodation must qualify in terms of the eligibility criteria.

3. DEFINITIONS:

3.1 "Spouse" means any partner (including same sex) with whom a prospective tenants habitually cohabits.

3.2 "Guardian" means any person legally appointed by a Court of Law or on recommendation by the Social Welfare Department to be the guardian for minor children left in occupation of the property.

3.3 "Household members" means any person registered by the former tenant with the City as a household member at any stage during the duration of the tenancy.

3.4 "Household income" means the gross income of the prospective tenant and all household members.

3.5 "Capacity to contract" means that persons must be 18 years of age or older, under 18 years of age and married and be mentally sound.

3.6 "Complex family structure" means a family consisting of the tenant, spouse and/or children including a combination of any of the following: stepchildren, siblings of the spousal couple, parents, grandparents, uncles or any other relative and/or any person housed with the family structure.

4. ELIGIBILTY CRITERIA:
All prospective tenants must qualify in terms of the following eligibility criteria:

4.1 Must be a South African with a valid Identity Document or have a permanent residency document.

4.2 Must have the capacity to contract.

4.3 Must have a registered application for accommodation.

4.4 Must not be the registered property owners.

4.5 Gross household income must be less than R 10 000 p.m.

4.6 Where household income is between R 0 and R 3 500 p.m., tenants pay the Economic Cost Recovery rental.

4.7 Where household income is between R 3 501 and R 7 000 p.m., tenants pay the Economic Cost Recovery rental plus 8% on the amount exceeding R 3 500.

Where the household income is between R 7 001 and R 10 000 p.m. tenants pay the Economic Cost Recovery rental plus 10% on the amount exceeding R 7 000.

4.8 Should it at any stage during the tenancy be found that the household income is in excess of R 3 500, the rental will be adjusted to include the 8% surcharge.

4.9 Tenants earning more than R 7 000 p.m. qualify for a bond on the open market and must therefore vacate the unit.

4.10 Tenants earning more than R 10 000 p.m. qualify for a bond on the open market and must therefore vacate the unit.

5. TRANSFER OF TENANCY:

Transfer of tenancy takes place in instances where the tenant has died, divorced, vacated or relinquished the tenancy and people have remained in occupation of the property.

5.1 TRANSFER OF TENANCY TO SPOUSE:

5.1.1 Due to death of tenant:

5.1.1.1 The tenancy may be transferred to the spouse on the death of the tenant.

5.1.1.2 Tenancy commences the day following the death of the tenant.

5.1.1.3 Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.1.1.4 By Antenuptual Contract with Accrual, traditional marriage, customary marriage and cohabitation or any other relationship, the full rental arrears shall be transferred to the new account.

5.1.2. Due to divorce:

5.1.2.1 The tenancy will be allocated to the spouse who has been granted custody of the minor children of the marriage or, in the case of joint custody, to the spouse whose home is the primary residence of the minor children.

5.1.2.2 Where the parties received joint custody of the minor children, the tenancy will be decided by mutual agreement of the parties failing which they will be required to produce an amended divorce decree insofar as the occupation of the premises is concerned.

5.1.2.3 Where there are no minor children to be considered, the tenancy will be decided by mutual agreement of the parties failing which they will be required to produce an amended divorce decree insofar as the occupation of the premises is concerned.

5.1.2.4 Any exceptions to the above will be dealt with on merit.

5.1.2.5 Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.1.2.6 Where the tenant and wife were married in community of property, half of the arrears shall be transferred to the new account.

5.1.3 Due to separation after cohabitation or traditional marriage:

5.1.3.1 The tenancy may be transferred to the partner of the tenant who is in occupation of the unit after a period of absence by the tenant of more than three months.

5.1.3.2 The tenancy commences the day following the date that the affidavit (confirming the absence of the lessee) is submitted.

5.1.3.3 Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.1.3.4 Half of the arrears will be transferred to the new account.

5.1.4 Due to desertion:

5.1.4.1 The tenancy may be transferred to the partner in occupation after having followed the due process of the Law.

5.1.4.2 Where the tenant and spouse were in community of property. Half of the arrears will be transferred to the new account.

5.1.5 Due to separation after customary marriages:

5.1.5.1 The tenancy may be transferred to the partner in occupation after a period of absence by the tenant of more than 3 months or on producing a divorce certificate and/or affidavit eg Talaaq.

5.1.5.2 Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.1.5.3 Tenancy commences the day following the date of the divorce or the day following the date that the affidavit (confirming the absence of the lessee) was submitted whichever date is the earlier.

5.1.5.4 Half of the arrears will be transferred to the new account.

5.1.6 Due to marriage (legal, traditional, customary) or cohabitation:

5.1.6.1 The tenancy may be transferred to the spouse only on written consent of the tenant.

5.1.6.2 All other terms and conditions of the lease remain unchanged.

5.2 TRANSFER OF TENANCY TO SOLE OCCUPANT (CHILD, HOUSEHOLD MEMBER):

Transfer of tenancy to a sole occupant may be considered if:

5.2.1 The person is a household member.

5.2.2 The person has been in occupation with the tenant for an unbroken period of two (2) years prior to the tenant having died/vacated, subject to substantive proof being provided. Consideration may be given to cases where absence was through circumstances beyond his/her control.

5.2.3 Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.2.4 The tenancy commences on the day following the death of the tenant, vacation by the tenant or relinquishing of the tenancy.

5.2.5 The household member shall purchase the dwelling if saleable or be right sized in a non saleable unit where practically possible. Should the offer of right sizing be refused, notice will be served on the occupant to vacate the premises. If the person is over-housed in a non-saleable unit, he/she must be right sized where possible.

5.2.6 The rent arrears will be dealt with in accordance with appropriate legislation.

5.3 TRANSFER OF TENANCY TO CHILDREN (INCLUDING GRANDCHILDREN) OR HOUSEHOLD MEMBER:

5.3.1 Criteria:

5.3.1.1 See section 2.5 above.

5.3.1.2 Duration of stay – interrupted or uninterrupted. Determine who had the least interrupted stay.

5.3.1.3 Section 3.5.1 of the approved Unlawful Occupation Policy.

5.3.1.4 If the entire above are exhausted and the persons still have the same claim, the matter must be referred to the Manager: Existing Housing.

5.3.1.5 When the tenancy is initiated by the tenant, his/her request and wishes may be considered.

5.3.2 Transfer of tenancy to children (including grandchildren) or household members may be considered if:

5.3.2.1 The person is of legal age and can prove that he/she had lived on the property with the tenant at some stage of the tenancy prior to the termination of tenancy.

5.3.2.2. Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

5.3.2.3 The person is not of legal age and can prove that he/she had lived on the property with the tenant at some stage of the tenancy prior to the termination of the tenancy. A guardian must reside at the property who undertakes the responsibilities of the lease on behalf of the child until he/she becomes eligible.

5.3.2.4 The tenancy commences on the day following the death of the tenant, vacation by the tenant or relinquishing of the tenancy.

5.3.2.5 The rent arrears will be dealt with in accordance with appropriate legislation.

5.4 RENTALS:

5.4.1 Rentals charged:

5.4.1.1 Where the tenancy is transferred to a spouse, the current rental will apply in accordance with the terms and conditions of the National Phasing In of Fair Rental and Loan Program as adopted by Council.

5.4.1.2 In case of transfer of tenancy to other household members, guardians or single persons, the rental charged will be the full Economic Cost Recovery Rental. In cases where the household income exceeds R 3 500, the 8% surcharge will be added to the rental.

5.5 OTHER OCCUPANTS:

Other occupants will be dealt with in terms of the City's Unlawful Occupation Policy for Rental Accommodation.

FINALE TUSSENTYDSE BELEID OOR HUURAANGELEENTHEDE – JULIE 2006 (GEWYSIG MEI 2009)

1. AANHEF:

Die Wet op Behuising, Wet 107 van 1997, maak geen voorsiening vir die bestuur van openbare huurvoorraad deur munisipaliteite nie. Nietemin is toepaslike kwalifiseringskriteria en inkomsteperke wat op bestaande nasionale behuisingsprogramme van toepassing is, gebruik by die oordrag van huurderskappe ten opsigte van die Stad se huurvoorraad.

Die nasionale infasering van die program vir billike huur en leningsvoorwaardes omskryf parameters vir die herstrukturering van huurgeld, met die klem op die uitfasering van subsidies van die vorige bedeling en die instelling van markverwante kosteverhalingshuurgeld.

Die Wet op Huurbehuising, Wet 50 van 1999, omskryf die staat se verantwoordelikheid ten opsigte van huurbehuisingseiendom en bepaal die raamwerk waarbinne huurbehuising in Suid-Afrika bestuur moet word. Die regte en verantwoordelikhede van verhuurders en huurders waarvoor daar in die Wet voorsiening gemaak word, is in die Stad se nuwe standaardhuurooreenkoms opgeneem.

2. BEGINSELS:

2.1 Die munisipaliteit lewer 'n billike en doeltreffende diens aan sy behuisingshuurders.

2.2 Daar moet 'n billike toewysing van huurvoorraad volgens bepaalde en ooreengekome prosedures wees.

2.3 Alle bestaande openbare behuising sal as sodanig beskou word, en geen derde party sal enige toewysing kan beïnvloed nie.

2.4 Die huurooreenkoms sal by afsterwe van die huurder outomaties beëindig word. Die aangeleentheid word dan behartig ingevolge die beleid oor die oordrag van huurderskappe of onwettige bewoning, na gelang dit toepaslik is.

2.5 Die oordrag van huurderskap aan 'n voornemende huurder sal oorweeg word as die huurder aan die kwalifiseringskriteria voldoen wat in klousule 4 uiteengesit is. Daarbenewens sal die volgende kriteria in aanmerking geneem word:

2.5.1 Eenstemmigheid onder die lede van die huishouding ten opsigte van wie die huurderskap moet oorneem.

2.5.2 Die persoon moet deel van die oorspronklike familiehuishouding wees, moet aan die familie gebore wees of wettig aangeneem wees.

2.5.3 Duur van verblyf – onderbroke of ononderbroke. Bepaal wie se verblyf is die minste onderbreek.

2.5.4 Chronologiese ouderdom sal van toepassing wees, d.w.s. die oudste persoon wat aan die kwalifiseringskriteria voldoen wat in klousule 4 uiteengesit is, sal vir die huurderskap oorweeg word.

2.6 Kinders van voormalige huurders wat in hulle ouers se huis ingetrek het.

2.6.1 Ooreenkomstig artikel 3.5.1 van die goedgekeurde beleid oor onwettige bewoning, kwalifiseer kinders van voormalige huurders vir normalisering as hulle kan bewys dat hulle in 'n stadium van die huurderskap in die wooneenheid of op die perseel gewoon het voordat die huurderskap beëindig is. Die volgende moet vasgestel word:

- Die verwantskap met die voormalige huurder.
- Of hulle op die raad se waglys geregistreer is.
- Of hulle ingevolge die statutêre vereistes kwalifiseer.
- Hetsy hulle nie bestaande huurders is nie, of ’n eiendom van die raad gekoop het of ander eiendom elders besit.
- Of hulle in enige stadium van die huurderskap saam met die huurder op die eiendom gewoon het.
- In gevalle waar die raad se rekords dit nie weerspieël nie, sal dit by die kinders berus om toepaslike en aanvaarbare bewys van sodanige bewoning te lewer.

2.6.2 As al bogenoemde kriteria oorweeg is en die persone het steeds gelyke aanspraak op die huurderskap, moet die aangeleentheid na die bestuurder: bestaande behuising verwys word.

2.7 Die inkomsteperk vir persone wat ’n bestaande huureiendom bewoon, is ’n huishoudelike inkomste van hoogstens R10 000 per maand, soos ingevolge die kwalifiseringskriteria gekategoriseer.

2.8 Voornemende huurders en huurders wat na alternatiewe akkommodasie verskuif word, moet ingevolge die kwalifiseringskriteria in aanmerking kom.

2.9 Nuwe huurders, kinders van die oorledene/s of enige derde party moet nie verantwoordelik gehou word vir of enige skuld erf wat aan die vorige huurder of ouer opgeloop is nie.

3. DEFINISIES:

3.1 “Gade” beteken enige lewensmaat (met inbegrip van dieselfde geslag) met wie ’n voornemende huurder gewoonlik saamwoon.

3.2 “Voog” beteken enige persoon wat wetlik deur ’n geregshof op aanbeveling van die departement: maatskaplike welsyn aangestel is om die voog te wees van minderjarige kinders wat agtergelaat is om die eiendom te bewoon.

3.3 “Lede van die huishouding” beteken enige persoon wat die voormalige huurder te eniger tyd gedurende die huurderskap as lid van die huishouding by die Stad geregistreer het.

3.4 “Huishoudelike inkomste” beteken die bruto inkomste van die voornemende huurder en alle lede van die huishouding.

3.5 “Vermoë om ’n kontrak aan te gaan” beteken dat persone 18 jaar of ouer moet wees, of jonger as 18 jaar en getroud en geestelik gesond moet wees.

4. KWALIFISERINGSKRITERIA:

Alle voornemende huurders moet ingevolge die volgende kwalifiseringskriteria in aanmerking kom:

4.1 Hulle moet Suid-Afrikaans met ’n geldige identiteitsdokument wees of oor ’n permanenteverblyfdokument beskik.

4.2 Hulle moet oor die vermoë beskik om ’n kontrak aan te gaan.

4.3 Hulle moet oor ’n geregistreerde aansoek om akkommodasie beskik.

4.4 Hulle mag nie geregistreerde eiendomseienaars wees nie.

4.5 Die bruto huishoudelike inkomste moet minder as R10 000 per maand wees.

4.6 Waar die huishoudelike inkomste tussen R0 en R3 500 per maand is, betaal huurders die ekonomiese kosteverhalingshuurgeld.

4.7 Waar die huishoudelike inkomste tussen R3 501 en R7 000 per maand is, betaal huurders die ekonomiese kosteverhalingshuurgeld plus 8% van die bedrag bo R3 500.

Waar die huishoudelike inkomste tussen R7 001 en R10 000 per maand is, betaal huurders die ekonomiese kosteverhalingshuurgeld plus 10% van die bedrag bo R7 000.

4.8 Ingeval dit in enige stadium van die huurderskap gevind word dat die huishoudelike inkomste meer as R3 500 is, sal die huurbedrag aangepas word om die 8% toeslag in te sluit.

4.9 Huurders wat meer as R10 000 per maand verdien, kwalifiseer vir 'n verband op die oop mark en moet dus die eenheid ontruim.

4.10 Dié inkomstekategorieë is van toepassing op die oordrag van huurderskap sowel as verskuiwing na alternatiewe akkommodasie en is onderhewig aan periodieke hersiening na gelang die raad besluit.

5. OORDRAG VAN HUURDERSKAP:

Oordrag van huurderskap vind plaas in gevalle waar die huurder oorlede is, geskei is, getrek het of van die huurderskap afstand gedoen het en mense steeds die eiendom bewoon.

5.1 OORDRAG VAN HUURDERSKAP AAN GADE:

5.1.1 By die afsterwe van 'n huurder

5.1.1.1 kan die huurderskap by die afsterwe van die huurder aan die gade oorgedra word;

5.1.1.2 begin huurderskap die dag na die afsterwe van die huurder;

5.1.1.3 kan persone wat nie ten tyde van die beëindiging van die huurderskap op die eiendom woon nie, na gelang van die verdienste van die geval oorweeg word;

5.1.1.4 word die helfte van die agterstallige huur volgens huweliksvoorwaardekontrak met oploping, tradisionele huwelik, gewoontehuwelik en saamwoning of enige ander verhouding na die nuwe rekening oorgedra.

5.1.2. By egskeiding

5.1.2.1 word die huurderskap aan die gade toegewys aan wie versorging van die minderjarige kinders uit die huwelik verleen is, of in die geval van gesamentlike versorging, aan die gade wie se huis die hoofwoning van die minderjarige kinders is;

5.1.2.2 sal die huurderskap deur onderlinge ooreenkoms deur die partye bepaal word in gevalle waar gesamentlike versorging van die minderjarige kinders aan die partye verleen is, by gebreke waarvan hulle 'n gewysigde egskeidingsbevel moet voorlê wat die bewoning van die perseel betref;

5.1.2.3 sal die huurderskap deur onderlinge ooreenkoms deur die partye bepaal word in gevalle waar geen minderjarige kinders oorweeg hoef te word nie, by gebreke waarvan hulle 'n gewysigde egskeidingsbevel moet voorlê wat die bewoning van die perseel betref;

5.1.2.4 sal enige uitsonderings rakende die bogenoemde volgens verdienste behandel word;

5.1.2.5 sal die huurderskap deur onderlinge ooreenkoms deur die partye bepaal word in gevalle waar gesamentlike versorging van die minderjarige kinders aan die partye verleen is, by gebreke waarvan hulle 'n gewysigde egskeidingsbevel moet voorlê wat die bewoning van die perseel betref;

5.1.2.6 word helfte van die agterstallige gelde na die nuwe rekening oorgedra in gevalle waar die huurder en gade in goederegemeenskap getroud was.

5.1.3 By skeiding na saamwoning of tradisionele huwelik

5.1.3.1 kan die huurderskap aan die lewensmaat van die huurder wat die eenheid bewoon, oorgedra word nadat die huurder vir langer as drie maande afwesig was;

5.1.3.2 begin die huurderskap die dag na die datum waarop die beëdigde verklaring (wat die afwesigheid van die huurder bevestig) voorgelê is;

5.1.3.3 kan persone wat nie ten tyde van die beëindiging van die huurderskap op die eiendom woon nie, na gelang van die verdienste van die geval oorweeg word;

5.1.3.4 word die helfte van die agterstallige gelde na die nuwe rekening oorgedra.

5.1.4 By verlating

5.1.4.1 kan die huurderskap aan die lewensmaat oorgedra word wat die eiendom bewoon, nadat die behoorlike regsproses gevolg is;

5.1.4.2 word die helfte van die agterstallige gelde na die nuwe rekening oorgedra as die huurder en lewensmaat in goederegemeenskap was.

5.1.5 By skeiding na gewoontehuwelike

5.1.5.1 kan die huurderskap aan die lewensmaat oorgedra word wat die eiendom bewoon nadat die huurder vir langer as drie maande afwesig was, of wanneer 'n egskeidingsertifikaat en/of beëdigde verklaring, bv. Talaaq, voorgelê word;

5.1.5.2 kan persone wat nie ten tyde van die beëindiging van die huurderskap op die eiendom woon nie, na gelang van die verdienste van die geval oorweeg word;

5.1.5.3 begin huurderskap die dag na die datum van die egskeiding of die datum waarop die beëdigde verklaring (wat die afwesigheid van die huurder bevestig) voorgelê is, welke datum ook al die vroegste is;

5.1.5.4 word die helfte van die agterstallige gelde na die nuwe rekening oorgedra.

5.1.6 By 'n huwelik (wettig, tradisioneel of gewoonte) of saamwoning

5.1.6.1 kan die huurderskap slegs met die skriftelike toestemming van huurder aan die gade oorgedra word;

5.1.6.2 bly alle bepalings en voorwaardes van die huurooreenkoms onveranderd.

5.2 OORDRAG VAN HUURDERSKAP AAN ALLEENBEWONER (KIND, LID VAN HUISHOUDING):

Oordrag van huurderskap aan 'n alleenbewoner kan soos volg oorweeg word:

5.2.1 Die persoon is lid van die huishouding.

5.2.2 Die persoon het vir 'n ononderbroke tydperk van twee (2) jaar saam met die huurder gewoon voordat die huurder oorlede is/getrek het, onderhewig daaraan dat wesenlike bewys gelewer word; gevalle kan in ag geneem word waar afwesigheid buite sy/haar beheer was.

5.2.3 Na gelang van die verdienste van die geval, as die persoon (persone) nie ten tyde van die beëindiging van die huurderskap op die perseel gewoon het nie.

5.2.4 Die huurderskap neem 'n aanvang op die dag na die afsterwe van die huurder, ontruiming deur die huurder of opsegging van die huurderskap.

5.2.5 Die lid van die huishouding moet die woning koop as dit verkoop kan word, of na 'n woning van toepaslike grootte oorgeplaas word, as dit prakties moontlik is. As die aanbod van verskuiwing na 'n woning van toepaslike grootte van die hand gewys word, sal kennisgewing aan die bewoner beteken word dat die perseel ontruim moet word. As die persoon in 'n nie-verkoopbare eenheid woon wat te groot is, moet hy/sy na 'n eenheid van toepaslike grootte verskuif word, waar dit moontlik is.

5.2.6 Agterstallige huurgeld sal in ooreenstemming met toepaslike wetgewing behartig word.

5.3 OORDRAG VAN HUURDERSKAP AAN KINDERS (MET INBEGRIP VAN KLEINKINDERS) OF LID VAN DIE HUISHOUDING:

5.3.1 Kriteria:

5.3.1.1 Sien afdeling 2.5 hierbo.

5.3.1.2 Duur van verblyf – onderbroke of ononderbroke. Bepaal wie die mins onderbroke verblyf gehad het.

5.3.1.3 Artikel 3.5.1 van die goedgekeurde beleid oor onwettige bewoning.

5.3.1.4 As die bogenoemde in die geheel uitgeput is en die persone steeds op huurderskap aanspraak maak, moet die aangeleentheid na die bestuurder: bestaande behuising verwys word.

5.3.1.5 Ingeval die huurderskap deur die huurder voorgestel word, kan sy/haar versoek en wense oorweeg word.

5.3.2 Oordrag van huurderskap aan kinders (met inbegrip van kleinkinders) of lede van die huishouding kan soos volg oorweeg word:

5.3.2.1 Die persoon is meerderjarig en kan bewys dat hy/sy in 'n stadium voor die beëindiging van die huurderskap saam met die huurder op die eiendom gewoon het.

5.3.2.2. Na gelang van die verdienste van die geval kan persone wat nie ten tyde van die beëindiging van die huurderskap op die eiendom gewoon het nie, vir huurderskap oorweeg word.

5.3.2.3 Die persoon is minderjarig en kan bewys dat hy/sy in 'n stadium voor die beëindiging van die huurderskap saam met die huurder op die eiendom gewoon het. 'n Voog wat die verantwoordelikhede van die huurooreenkoms namens die kind waarneem, moet op die eiendom woon totdat hy/sy in aanmerking kom.

5.3.2.4 Die huurderskap neem 'n aanvang op die dag na die afsterwe van die huurder, ontruiming deur die huurder of opsegging van die huurderskap.

5.3.2.5 Agterstallige huurgeld sal in ooreenstemming met toepaslike wetgewing behartig word.

5.4 HUURGELD:

5.4.1 Huurgeld word soos volg gehef:

5.4.1.1 Waar die huurderskap aan 'n gade oorgedra word, sal die heersende huurgeld van toepassing wees in ooreenstemming met die bepalings en voorwaardes van die nasionale program vir infasering van billike huur en lenings soos die raad dit aanvaar het.

5.4.1.2 In die geval waar huurderskap aan ander lede van die huishouding, voogde of enkellopende persone oorgedra word, sal die huurgeld wat gehef word, die volle ekonomiese kosteverhalingshuurgeld wees. In gevalle waar die huishoudelike inkomste hoër as R3 500 is, sal die toeslag van 8% by die huurgeld gevoeg word.

5.5 ANDER BEWONERS:

Ander bewoners sal ingevolge die Stad se beleid oor onwettige bewoning van huurakkommodasie behandel word.

UMMGAQO-NKQUBO WETHUTYANA WEMIBANDELA YENGQESHO WOKUGQIBELA – JULAYI 2006 (ULUNGISWE NGOMEYI KA- 2009)

1. UMHLAHLANDLELA:

UMthetho weZindlu ka-1997 (uMthetho onguNomb. 107 ka-1997) awunawo amalungiselelo olawulo ezindlu zoluntu ezirentiswayo ngooMasipala. Kambe ke imigaqo efanelekileyo yokuba nelungelo kunye nobungakanani bengeniso nezithi zisetyenziswe kwiinkqubo zeSizwe zeCandelo leZindlu zithe zasetyenziswa njengesikhokelo sokutshintshela ingqesho ngokuphathelele kwizindlu ezirentwayo zeSixeko.

UkuNgeniswa kweNkqubo yeSizwe yeRenti enoBulungisa kunye neMigaqo yeMali-mboleko kuchaza imo yohlengahlengiso lwerenti egxininisa ekuyekisweni kwemali-nkxaso kwisithuba seminyaka emihlanu nokufakwa kweerenti ezilanyaniswa namaxabiso okanye neendleko zezindlu.

UMthetho weZindlu eziRentwayo ka-1999 (uMthetho onguNomb. 50 ka-1999) uchaza uxanduva lukarhulumente ngokuphathelele kwizindlu ezirentwayo kwaye umisela isiseko semo ekufuneka isetyenziswe kwizindlu ezirentwayo eMzantsi Afrika. Amalungelo noxanduva lwabanini-zindlu zengqeshiso kunye nabarenti njengoko uchazwe kulo Mthetho zithe zabandakanywa kwisivumelwano sengqeshiso esitsha seSixeko.

2. IMITHETHO-SISEKO:

2.1 UMasipala unika inkonzo enobulungisa nesebenza ngokukuko kubantu ebaqeshisele izindlu.

2.2 Kufuneka ulwabiwo olunobulungisa .lwezindlu ezirentwayo, oko kusenziwa ngokweenkqubo ezimiselweyo nekuvunyelweneyo ngazo.

2.3 Zonke izindlu zoluntu ezikhoyoziza kuthathwa ngolo hlobo, kungabikho elinye iqela elibandakanyekayo eliza kuba neempembelelo kulwabiwo lwazo.

2.4 Ingqeshiso iyaphela ngokuzenzekelayo akusweleka umqeshi. Emva koko lo mbandela kusetyenzwa ngawo ngokomgaqo-nkqubo ophathelele notshintshelo lwengqeshiso okanye ukuhlala ngokungekho mthethweni, nokuba yeyiphi kwezi.

2.5 Utshintshelo lwengqeshiso luya kuqwalaselwa kumqeshi-ndlu ozihlangabezayo iinqobo zokuba nelungelo njengoko kuchaziwe kuMhlathi 4. Ngaphezu koko kuya kuthathelwa ingqalelo le nqobo ilandelayo:

2.5.1 Imvumelwano kumalungu elo khaya ukuba ngubani omakanikwe ilungelo lokuqeshiselwa.

2.5.2 Kufuneka abe yinxalenye yefemeli yelo khaya, abe uzelelwe kulo femeli okanye abe wamkelwe nje ngomntwana welo khaya ngokusemthethweni.

2.5.3 Ixesha elihlaliweyo – liqhawukile okanye akhange liqhawuke. Ukumiselwa ukuba ngubani oyena uhleli elona ixesha lincinane liqhawukileyo.

2.5.4 Ukwalekelana ngokobudala kuya kusebenza umz. oyena mntu mdala kwaye enelungelo ngokoMhlathi 4 kuya kuqeshiselwa yena.

2.6 Abantwana babaqeshi bangaphambili abathe baza kungena kwikhaya labazali babo.

2.6.1 NgokweCandelo 3.5.1 loMgaqo-nkqubo owamkelweyo wokuHlala ngokungekho mthethweni, abantwana babaqeshi abangaphambili banelungelo lokuba ngabaqeshi ukuba banabo ubungqina bokuba bebekhe bahlala kulo ndlu okanye eyadini kunye nomqeshi ngethuba ebengumqeshi, ngaphambi kokuba umqeshi wendlu iphelelwe ingqeshiselo yakhe. Kufuneka kufunyaniswe oku kulandelayo:

- Ulwalamano (uzalwano) kunye nomqeshi wangaphambili;
- Ingaba babhalisiwe na kuluhlu lweBhunga;
- Ingaba banelungelo na ngokweemfuno ezisemthethweni;
- Ingaba ngoku bangabaqeshi kwenye indawo okanye bathenge ipropati kwiSixeko okanye bangabanini-propati kwenye na;
- Ingaba bakhe bahlala na kule propati ngethuba ibiqeshisiwe kumqeshi wendlu wangaphambili;
- Kwimeko apho iirekhodi zeBhunga zingakubonisi oku, abantwana luxanduva lwabo, ukuba baze nobungqina obufanelekileyo nobamkelekileyo bokuba bebehlala apho;

2.6.2 Ukuba zonke ezi meko zingasentla zithe zaqwalaselwa kwaze kwafumaniseka ukuba bonke aba bantu basenelungelo elilinganayo, lo mbandela kufuneka ubhekiswe kuManejala weZIndlu eziKhoyo.

2.7 Ummiselo wengeniso wabantu abahlala kwezi propati zirentwayo zikhoyo iya kuba yingeniso yekhaya engaphantsi kwe-R 10 000 ngenyanga njengoko ichaziwe phantsi kweenqobo zokuba nelungelo.

2.8 Abo banokuba ngabaqeshi kwixesha elizayo kunye nabo bangabaqeshi abatshintshela kwenye indawo yokuhlala kufuneka babe nelungelo ngokweenqobo zokuba nelungelo.

2.9 Abaqeshi abatsha, abantwana babantu abaswelekileyo okanye abantu abangabanye kufuneka ingabi luxanduva lwabo okanye banikwe ityala ebelilelomntu obengumqeshi wendlu ongaphambili okanye lomzali.

3. IINKCAZO:

3.1 "Iqabane" lithetha naliphi iqabane (kuquka abo basini sifanayo) umqeshi wendlu omtsha ebehlala nalo.

3.2 "Umgcini" uthetha nawuphi na umntu onyulwe yiNkundla yaMatyala okanye othethelelwe liSebe lezeNtlalo-ntle ukuba abe ngumgcini wabantwana abasebancinci abashiywe ukuba bahlale kuloo propati.

3.3 "Amalungu ekhaya" athetha nawuphi na umntu obhaliswe kwiSixeko ngumqeshi wendlu ongaphambili njengelungu lekhaya nangaliphi na ixesha ngethuba ebengumqeshi wendlu apho.

3.4 "Ingeniso yekhaya" ithetha ingeniso yalowo uza kuba ngumqeshi wendlu kunye kunye naleyo yabo bangamalugu ekhaya..

3.5 "Ulwazi ngekhontrakti" kuthetha ukuba abantu kufuneka babe neminyaka eli- 18 okanye ngaphezulu ubudala, abangaphantsi kwe-18 babe betshatile kwaye bebhadlile ngokwasengqondweni.

4. IINQOBO ZOKUFANELEKA:

Bonke abaqeshi abatsha kufuneka babe nelungelo ngokwezi nqobo zilandelayo:

4.1 Babe ngabemi baseMzantsi Afrika abaneNcwadi yeSazisi esebenzayo okanye uxwebhu lokuba ngumhlali osisigxina.

4.2 Babe nakho ukuyiqonda ikhontrakti.

4.3 Kufuneka babe naso isicelo esibhalisiweyo sendawo yokuhlala.

4.4 Kufuneka babe abangobanini bepropati ababhalisiweyo.

4.5 Iyonke ingeniso yekhaya kufuneka ibe ngaphantsi kwe-R 10 000 ngenyanga.

4.6 Xa ingeniso yekhaya iphakathi kwe-R 0 kunye ne-R 3 500 ngenyanga, abaqeshi bahlawula iRenti ePhantsi yokuBuyisa iiNdleko.

4.7 Xa ingeniso yekhaya iphakathi kwe-R 3 501 kunye ne-R 7 000 ngenyanga, abaqeshi bahlawula iRenti ePhantsi yokuBuyisa iiNdleko kunye ne-8% yeso sixa singaphezulu kwe-R3 500.

Xa ingeniso yekhaya iphakathi kwe-R 7 000 kunye ne-R 10 000 ngenyanga, abaqeshi bahlawula iRenti ePhantsi yokuBuyisa iiNdleko kunye ne-10% yeso sixa singaphezulu kwe-R 7 000

4.8 Nanini na xa kuthe kwafumaniseka ukuba ingeniso yekhaya ingaphezulu kune-R 3 500, intlawulo yerenti iya kuhlengahlengiswa ukuze iquke i-8% yengeniso engaphezulu kwe-R 3 500.

4.9 Abaqeshi abanengeniso engaphezulu kwe-R 10 000 ngenyanga banelungelo lokufumana imali-mboleko eya kubuyiswa ngexesha elithile nenzala ethile (bond) kwimarike evulelekileyo ngoko ke kufuneka baphume kuloo yunithi irentwayo.

4.10 Ezi ntlobo zengeniso zisebenza kutshintsho lobuqeshi nakutshintsho lokuya kwezinye iindawo zokuhlala kwaye ziza kumana zihlaziywa liBhunga.

5. UTSHINTSHO LOBUQESHI:

Utshintsho lobuqeshi lwenzeka xa umqeshi wendlu ethe wasweleka, waqhawula umtshato, wayishiya indlu, wanikezela ngengqeshiso kwaze kwashiyeka kukho abantu abahlala kulo propati.

5.1 UKUTSHINTSHELWA KOQESHISO LWENDLU KWIQABANE:

5.1.1 Ngenxa yokusweleka:

5.1.1.1 Ubuqeshi bungatshintshelwa kwiqabane xa kusweleke umqeshi.

5.1.1.2 Ubuqeshi buqalisa kusuku olulandela olo lokusweleka komqeshi.

5.1.1.3 Abantu abangahlali kuloo ndlu ngexesha lokuphelwa komqeshi bangaqwalaselwa ngokubume bemeko.

5.1.1.4 Ngokwesivumelwano ngaphambi komtshato, isiqingatha sentlawulo esemva yerenti siza kutshintshelwa kwi-akhawunti entsha xa nitshate isintu, okanye nihlalisana okanye nabuphi na obunye ubudlelwane.

5.1.2. Ngenxa yoqhawulo-mtshato:

5.1.2.1 Ubuqeshi buza kunikwa iqabane elinikwe ilungelo lokugcina abantwana abasebancinci bomtshato okanye, apho abantwana banikezelwe elugcinweni lwabazali bobabini, ubuqeshi buza kunikezelwa kwelo qabane ikhaya lalo liyindawo yokuqala yokuhlala yabo bantwana.

5.1.2.2 Kwimeko apho abantwana abasebancinci benikezelwe elugcinweni lwabazali bobabini, ubuqeshi buza kugqitywa ukuba mabunikezelwe bani na ngesivumelwano samacala omabini okanye kuza kufuneka ukuba bafune isivumelwano soqhawulo mtshato esilungisiweyo mayela nokuhlala kwindlu leyo.

5.1.2.3 Apho kungekho bantwana bancinci ekufuneka ukuba baqwalaselwe, ubuqeshi buya kugqitywa ngokwesivumelwano samacala omabini ukuba mabunikezelwe bani na kuza kufuneka ukuba bafune isivumelwano soqhawulo mtshato esilungisiweyo mayela nokuhlala kwindlu leyo

5.1.2.4 Naziphi na ezinye imeko eziya kuthi zivele kuya kujongwana nazo ngokobume bazo.

5.1.2.5 Abantu abangahlali kulo ndlu ngethuba lokuphelelwa koqesho bangaqwalaselwa ngokobume bemeko.

5.1.2.6 Apho ummqeshi nenkosikazi yakhe batshate ngendlela yolwabelwano lwepropati, isiqingatha sentlawulo esemva siza kutshintshelwa kule akhawunti intsha.

5.1.3 Ngenxa yokwahlukana emva kokuhlalisana okanye emva komtshato wesithethe :

5.1.3.1 Ubuqeshi bungatshintshelwa kwiqabane lomqeshi elihlala kwiyunithi leyo emva kwesithuba esingaphezulu kweenyanga ezintathu engekho umqeshi.

5.1.3.2 Ubuqeshi buqalisa ngosuku olulandela umhla i-afidavithi (eqinisekisa ukungabikho komqeshi) engeniswe ngawo.

5.1.3.3 Abantu abangahlali kulo ndlu ngethuba lokuphelewa koqeshiso bangaqwalaselwa ngokobume bemeko.

5.1.3.4 Isiqingatha seentlawulo ezisemva siza kutshintshelwa kule akhawunti intsha.

5.1.4 Ngenxa yokushiywa kwendlu:

5.1.4.1 Ubuqeshi bungatshintshelwa kwiqabane elihlala endlwini emva kokuba kulandelwe inkqubo emiyo yomthetho.

5.1.4.2 Xa umnini neqabane lakhe ngokomtshato wokwabelana ngepropati, isiqingatha sentlawulo yerenti esemva siza kutshintshelwa kule akhawunti intsha.

5.1.5 Ngenxa yokwahlukana emva komtshato wesintu:

5.1.5.1 Ubuqeshi bungatshintshelwa kwiqabane lomqeshi elihlala kwiyunithi emva kwesithuba esingaphezulu kweenyanga ezintathu engekho umqeshi wendlu okanye xa kuveliswe isatifiketi sokuqhawula umtshato kunye/okanye i-afidaviti (umz. Talaaq).

5.1.5.2 Abantu abangahlali kulo ndlu ngethuba lokuphelewa koqeshiso bangaqwalaselwa ngokobume bemeko.

5.1.5.3 Ubuqeshi buqalisa ngosuku olulandela umhla woqhawulo lomtshato okanye ngosuku olulandela umhla i-afidaviti (eqinisekisa ukungabikho komqeshi) yangeniswa ngawo nokuba ngowuphi na umhla oqale wafika kule mihla mibini.

5.1.5.4 Isiqingatha sentlawulo esemva siza kutshintshelwa kule akhawunti intsha.

5.1.6 Ngenxa yomtshato (osemthethweni, owesithethe, owesintu) okanye ukuhlalisana:

5.1.6.1 Ubuqeshi bungatshintshelwa kwiqabane xa umqeshi wendlu ethe wanika imvume ebhaliweyo.

5.1.6.2 Yonke eminye imigaqo nemiqathango yeengqeshiso ayitshintshi.

5.2 UKUTSHITSHELWA KOQESHISO LWENDLU KUMNTU OMNYE OHLALA KULOO PROPATI (UMNTWANA, ILUNGU LEKHAYA):

Utshintshelo lobuqeshi kumntu omnye bungaqwalaselwa ukuba:

:

5.2.1 Umntu lowo lilungu lekhaya.

5.2.2 Umntu lowo ebehlala nomqeshi kangangesithuba seminyaka emibini engaqhawukanga ngaphambi kokuba umqeshi wendlu asweleke / ayishiye ipropati leyo, xa kukho ubungqina obucacileyo.. Ingaqwalaselwa imeko apho umntu lowo ebengahlali kuloo propati ngenxa yezizathu angenakuzinceda.

5.2.3 Abantu abangahlali kulo ndlu ngethuba lokuphelewa koqeshiso bangaqwalaselwa ngokobume bemeko.

5.2.4 Ubuqeshi buqalisa ngosuku olulandela umhla wokusweleka komqeshi, wokuyishiya kwakhe indlu okanye ukunikezela ngobuqeshi.

5.2.5 Ilungu lekhaya liza kuyithenga ipropati yokuhlala ukuba iyathengiseka okanye litshintshelwe kwefanelekileyo engathengiswayo ukuba oko kuyakwazi ukwenzeka. Ukuba umntu ohlala kulo propati uyala ukuya kuleyo atshintshelwa kuyo, uya kunikwa isaziso sokuba ayishiye ipropati leyo. Ukuba umntu ufumene indlu enkulu kwiiyunithi ezingathengiswayo, kufuneka afumane indlu efanelekileyo ukuba oko kuyakwazi ukwenzeka.

5.2.6 Intlawulo yerenti esemva kuza kujongwana nayo ngokomthetho ofanelekileyo.

5.3 UKUTSHINTSHELWA KOQESHISO-NDLU KUBANTWANA (KUQUKA ABAZUKULWANA) OKANYA AMALUNGU EKHAYA:

5.3.1 Iinqobo:

5.3.1.1 Jonga kwiCandelo 2.5 ngasentla.

5.3.1.2 Ixesha elihlaliweyo – liqhawukile okanye akhange liqhawuke. Ukumiselwa ukuba ngubani oyena uhleli elona ixesha lincinane liqhawukileyo.

5.3.1.3 ICandelo 3.5.1 loMgaqo-nkqubo owamkelweyo wokuHlala ngokuNgekho Mthethweni.

5.3.1.4 Ukuba zonke ezi meko zingasentla zithe zaqwalaselwa kwaze kwafumaniseka ukuba bonke aba Bantu basenelungelo elilinganayo, lo mbandela kufuneka ubhekiswe kuManejala weZindlu eziKhoyo.

5.3.1.5 Ukuba ubuqeshi bufunwa ngumqeshi wendlu osele ekho, isicelo kunye neminqweno yakhe ingaqwalaselwa.

5.3.2 Ukutshintshelwa koqeshiso lwendlu kubantwana (kuquka abazukulwana) okanye amalungu ekhaya kunokwenziwa :

5.3.2.1 Ukuba umntwana okanye ilungu elo likubudala obamkelekileyo ngokomthetho kwaye unobungqina bokuba ebehlala kuloo propati kunye nomqeshi kwithuba elithile ngaphambi kokuphela kwengqeshiso.

5.3.2.2. Abantu abangahlali kulo ndlu ngethuba lokuphelewa koqeshiso bangaqwalaselwa ngokobume bemeko.

5.3.2.3 Ukuba umntwana okanye ilungu elo likubudala obungamkelekanga ngokomthetho kwaye unobungqina bokuba ebehlala kuloo propati kunye nomqeshi kwithuba elithile ngaphambi kokuphela kwengqeshiso. Kufuneka kubekho umgcini ohlala kuloo propati ozibophelelayo kuxanduva lengqesho egameni lomntwana lowo ade abe ufikelela kubudala obufanelekileyo.

5.3.2.4 Ubuqeshi buqalisa ngosuku olulandela umhla wokusweleka komqeshi, wokuyishiya kwakhe okanye ukunikezela ngobuqeshi.

5.3.2.5 Intlawulo yerenti esemva kuza kujongwana nayo ngokomthetho ofanelekileyo.

5.4 IINTLAWULO ZERENTI:

5.4.1 Iirenti ezirhafwayo:

5.4.1.1 Xa ubuqeshi bunikezelwe kwiqabane, kuza kuhlawulwa le renti ikhoyo ngokwemigaqo nemiqathango yokuNgeniswa kweNkqubo yeRenti kunye neMali-mboleko enoBulungisa njengoko yamkelwe liBhunga.

5.4.1.2 Xa kutshintshelwa ubuqeshi kwamanye amalungu ekhaya, abagcini okanye abantu ababodwa, irenti erhafwayo iza kuba yiRenti ePhantsi yokuFumaneka kweeNdleko. Kwimeko apho ingeniso yekhaya ingaphezulu kwe-R3 500 kuza kongezwa intlawulo eyi-8% kwirenti.

5.5 ABANYE ABANTU ABAHLALA KWIZINDLU EZIRENTWAYO ZESIXEKO:

Abanye abantu abahlala kwizindlu ezirentwayo zeSixeko kuza kujongwana nabo ngokoMgaqo-nkqubo weSixeko wokuHlala ngokungekho Mthethweni.