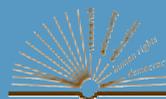


# Accessing housing in the Western Cape

A guide for women vulnerable to  
gender-based violence and HIV/AIDS,  
and for organisations providing services to them

By Lilian Chenwi



COMMUNITY  
LAW CENTRE

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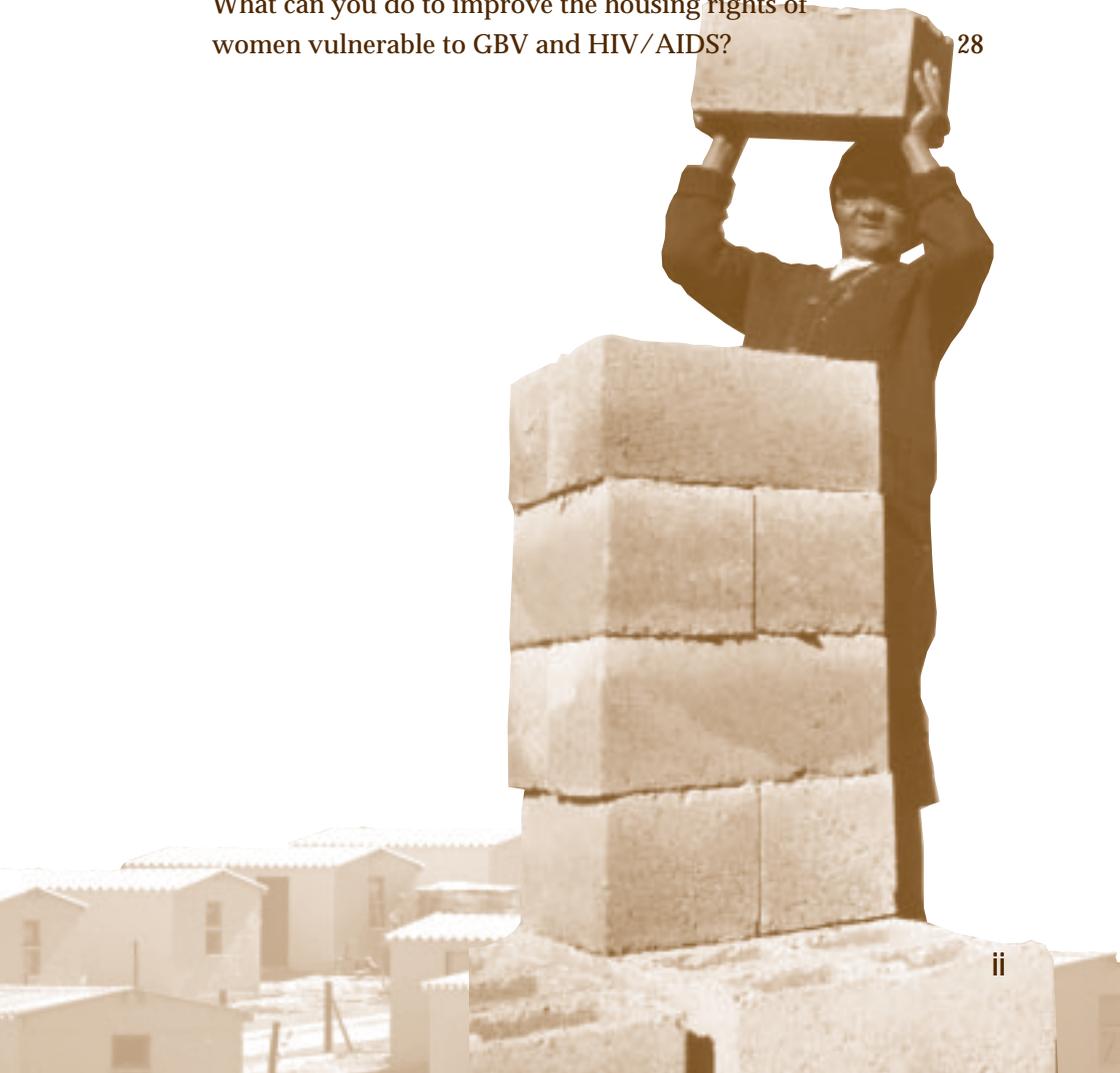
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# PART 1: INTRODUCTION

South Africa's 1996 Constitution guarantees everyone the right to have access to adequate housing. The government must take "reasonable legislative and other measures, within its available resources, to achieve the realisation of this right". The government tries to implement this right through legislation, policies and other steps. However, housing delivery takes place in a legal and social framework that results in inequities. So, for example, women (especially women who are vulnerable to Gender-Based Violence (GBV) and HIV/AIDS), still have difficulties in accessing housing. In some cases, it is made worse because there is no housing policy specifically for women experiencing GBV and HIV/AIDS. Also, these women often have little or no access to information about the legal and policy framework that regulates access to formal housing.

This guide is therefore aimed at women vulnerable to GBV and HIV/AIDS, who need an overview of how housing is allocated in the Western Cape so that they can get access to housing. It is also for organisations that provide services to these women. The guide gives a summary of the policies in a user-friendly way. These policies include the housing subsidy scheme, the discount benefit scheme, social housing, government rental policies and private rentals. For each policy, the guide sets out what the policy is, who qualifies, how to apply, what documents must be provided when applying, and where to get more information on the policy. Examples are also given.

The guide is produced as part of a joint project between the Community Law Centre (Socio-Economic Rights Project and Gender Project) and the Saartjie Baartman Centre for Women and Children on reducing women and girls' vulnerability to HIV/AIDS by ensuring their property and inheritance rights. This joint project aims, especially, to improve women's access to adequate housing to make them less vulnerable to GBV and HIV/AIDS.

## PART 2: HOUSING SUBSIDY SCHEME

### What is the housing subsidy scheme?

The subsidy scheme is an important measure through which women can access housing. Those who qualify for a housing subsidy receive a once-off grant from the government. The government does not give them cash. The subsidy amount is paid directly to the financial institution, conveyancing attorney or service provider. The grant is only used to buy land, to provide services such as water and sanitation, to buy the materials that are needed for building a house, or to buy existing houses.

The housing subsidy is not a loan, so you do not need to pay it back. However, you may be required to contribute some money yourself, depending on your income. Or you can take part in building your house through the People's Housing Process, which is explained on page 10.

**Who is a beneficiary?** A beneficiary is a person who qualifies for a particular subsidy under the rules for the subsidy, or a person who has already received a subsidy.

### What subsidies are available?

There are six different kinds of subsidies. Each of them is briefly described below.

#### 1. Individual subsidy



There are two kinds of individual subsidies.

The **'credit-linked individual subsidy'** is for beneficiaries who can afford to get loans from financial institutions, such as banks or other lenders of money who have agreed to act as agents for the Provincial Department of Local Government and Housing (referred to as 'approved' financial institutions or lenders). A list of the approved lenders is available from the Department.

If a person is given credit by a financial institution to buy an existing house, the bank can apply for the subsidy on behalf of the beneficiary. The subsidy is then paid directly to the financial institution.

**EXAMPLE: Credit-linked individual subsidy**

Mrs Mbongo works for 'XYZ Furnishers' as a Deputy Supervisor and earns a regular monthly income of R3 000. She wishes to buy a house and approaches 'ABC Building Society' for a loan. She takes with her a certified copy of an 'agreement of sale' for the house. 'ABC Building Society' asks her to also complete a qualification form. It later approves her application, so long as she first gets approval for a subsidy. 'ABC Building Society' now asks her to complete an application form for the credit-linked subsidy. The building society sends this application to the Provincial Department of Local Government and Housing on her behalf, along with the necessary documents. The Department approves the subsidy application and gives 'ABC Building Society' the subsidy amount. The subsidy is not for the full amount of the loan: it covers 80% of it. 'ABC Building Society' pays the subsidy amount plus the rest of the loan to the seller of the property. Mrs Mbongo therefore owes 'ABC Building Society' the remaining 20% of the loan. She does not have to pay back the subsidy amount, only the difference between the subsidy and the amount 'ABC Building Society' loaned her.

The **'non-credit linked individual subsidy'** is given to a beneficiary who does not qualify for a loan from a financial institution. Such a person may apply for a subsidy to cover most of the cost of buying a house. In this case, the subsidy is paid to a conveyancing attorney, who then pays it to the seller of the property. The fee charged by the conveyancing attorney is paid out of the subsidy.

**Who is a conveyancing attorney?** A conveyancing attorney is a lawyer who deals with the transfer of ownership of property.

If you apply for individual subsidy and it is granted, you may have to make a contribution to the cost. This contribution could come out of your savings. You could also borrow money

to pay for it. If you borrow money from an 'approved' or other financial institution, you will have to pay it back to the institution that gave it to you.

**EXAMPLE: Non-credit linked individual subsidy**

Mrs Ria Jantjies works part-time as a domestic worker and earns between R1 900 and R2 200 per month. She finds a house that she would like to buy but the banks will not lend her the money to do so as she does not earn enough and her income is not regular enough. She applies for a subsidy to buy the house and the subsidy is granted. The subsidy is not given directly to Mrs Jantjies: it is paid to the conveyancing attorney. Mrs Jantjies is told that she must make a contribution of a certain amount and she uses her savings for this. The conveyancing attorney pays the seller of the property the amount of the subsidy.

A beneficiary who bought unsubsidised land with her own money, and wishes to build her own home, **may** also be considered for an individual subsidy.

**For more information on individual subsidies**, phone the Department of Local Government and Housing on 021 483 4064.



## 2. Consolidation subsidy

Under the apartheid government, some urban areas were divided into smaller pieces of land that were serviced (given basic services such as water, electricity and a sewerage system) and sold to people under a previous housing subsidy scheme. The consolidation subsidy is aimed at people who own these pieces of land and who now want to build houses there. This subsidy is paid out on a group basis. Therefore, you must be part of a group and the group must have an agreement that sets out its goals and how it is going to achieve them. The group must also be represented by a community-based organisation.

Beneficiaries of this subsidy may choose to build their own homes or their homes may be built by a contractor.

### **EXAMPLE: Consolidation subsidy**

In 1988, a piece of government-owned land near 'Laaiplek' was divided into smaller portions. About 45 people received subsidies from the previous government in order to buy these pieces of land. No houses were built for them but roads were constructed and storm water drainage was installed. People moved onto their land and built shacks there. In 2005, the 'Flats Housing Forum' was formed by 32 of these landowners, who live next to one another in the northern area of the land. They drew up an agreement with the help of a legal aid organisation, stating who the membership of the group is, that they wish to build 32 brick houses, how much this will cost and who will be entitled to the houses. Most of the employed members wish to have their houses built by a contractor while those who are presently unemployed prefer to build their own homes. The agreement sets out what each member's responsibility will be. The Chair of the Forum gave the municipality a list of all the Forum's members and checked that each member is on the waiting list for council housing.

To get the subsidy you must put your name on the waiting list for council housing in your area. When it is your turn on the list, the council will inform you of what you need to do and what contributions you must make.



### **3. Project-linked subsidy**

This subsidy is given to municipalities to develop housing projects that have been approved by the Provincial Department of Local Government and Housing. The subsidy amount is therefore paid directly to the municipality that is building the houses. The houses are then sold to qualifying beneficiaries who have been on the municipality's waiting list.

You must therefore be on the municipality's waiting list for housing before you can be considered as a beneficiary. When it is your turn on the list, the council will inform you of what you need to do and what contributions you must make.



### **EXAMPLE: Project-linked subsidy**

Sanette Claasens left the farm 'Kliprivier' when her husband, Petrus, who was a worker on the farm, broke her arm when he beat her up. She and her two children moved to the outskirts of a nearby town, to an informal settlement where people who were evicted from farms in the area had built shacks. Shortly after she moved there, Sanette put her name on the municipality's housing list. Four years later, the municipality decided to build low-cost housing to accommodate the people in this settlement as well as other people on its housing list. Plans were drawn up for 150 houses. The plans were approved by the Provincial Department of Local Government and Housing. The municipality applied for the project-linked subsidy for the 150 houses and the Department approved its application. The municipality began construction of the houses. It checked its housing list to see who qualified for the subsidy and Sanette Jantjies was one of the people who were told they would receive a house when construction was finished. After she moved into the house, she was responsible for paying for municipal rates and for the water and electricity she and her children used.



## **4. Institutional subsidy**

This subsidy is given to 'approved' housing institutions so they can buy residential property and manage it. The organisations or institutions applying must be Section 21 companies. Among other things, they must prove that they are financially viable, have suitable tenure arrangements with beneficiaries and are able to manage building projects.

An institution that receives the subsidy must provide subsidised housing for families earning below R3 500 per month on a 'rental' or 'rent-to-buy' option. A beneficiary must rent the property for at least four years. During this time, the institution is the owner of the property. After the four years, the house may be sold or transferred to the beneficiary. If the person renting the property is not interested in buying it, she may apply for a housing subsidy in another project. An institutional subsidy therefore does not always mean that the beneficiary ends up owning the property.

### **EXAMPLE: Institutional subsidy**

'Housing People with Special Needs' ('HPSN') is a Section 21 construction company that is involved in providing low-cost housing for people with special needs. This is done through subsidy it receives from the Department of Local Government and Housing. Among its clients is 'Mental Health United' ('MHU'), an organisation that runs group homes for adults who suffer from mental illness and are not able to live with their families. It currently has 10 people on the waiting list for a home. They receive disability grants from the government and have no other source of income. 'HPSN' receives a subsidy and builds a house to accommodate the 10 adults. For the first four years, while the 10 adults are living in the house, 'MHU' pays 'HPSN' rent for the homes. After that time, the property is transferred to the 'MHU' Property Trust and is then owned by the Trust. The 10 people carried on living in the house.

**All applications for this subsidy are approved by the Provincial Department of Local Government and Housing.**

The institutional subsidy can be used to provide special needs housing, including housing for women experiencing gender-based violence.



### **5. Relocation assistance**

This subsidy is offered to people who borrowed money from banks to buy property and who, on 31 August 1997, were at least three months behind with their payments and needed to be moved to more affordable housing. The Department of Housing, in partnership with the Banking Council, has established a company called Servcon Housing Solutions. This company assists beneficiaries in obtaining affordable housing with the assistance of the housing subsidy.

**What is a Rightsizing Agreement?** This is an agreement that allows borrowers who cannot afford repayments on their home loans to stay on the property, for a limited time, while they look for property they can afford. This second property is called the 'rightsized property'. While they are looking, they have to pay the lender who holds the bond a reasonable occupation rental on a month-to-month

basis. During this time, the lender has the right to sell the property. Borrowers who have a Rightsizing Agreement can then apply for a bond that they can afford to help them find a rightsized property.

**EXAMPLE: Rightsizing agreement**

Boniswa Situ worked as a clerk at an insurance company. In the early 1990s she bought a house in Crawford using money that she borrowed from 'ABC Bank' (this is called a mortgage bond or a bond). She had to pay the bank back a certain amount every month. A year after she bought the property she found out she was HIV-positive and by January 1997 she was very ill. Her medical costs were high and she became unable to pay the bond on her flat. In 1998, she signed a Rightsizing Agreement with 'ABC Bank' so that she could continue to stay in her house while she looked for a more affordable place to live. She paid the bank a small amount of rent during this time instead of paying the large bond payments. Later, Servcon Housing Solutions helped her to get a housing subsidy and she moved to a flat in nearby Lansdowne that was much cheaper than her house.

**For more information on relocation assistance, contact:** Servcon, 2nd Floor, Perm Building, 135 Main Street, Claremont, 7700; phone 021 683 1315/1374, or fax 021 683 1375; or call the subsidies helpdesk.



## 6. Rural subsidy

This subsidy is given to households who have informal land rights under the Protection of the Informal Land Rights Act 31 of 1996. These land rights must be uncontested and there should be no chance that the rights could be lost during the current land reform process. The type of land involved is usually in rural areas. It belongs to the government and is governed by traditional authorities. The subsidies are available to projects, not to individuals. Projects that receive subsidies are supported by implementing agents accredited by the Provincial Department of Local Government and Housing. The subsidy is paid to financial agents who then administer the payout of the funds.

**To find out if your area falls under this subsidy,** contact the Provincial Department of Local Government and Housing.

**EXAMPLE: Rural subsidy**

'Housing Holdings', an accredited implementing agent, identifies a project in a rural area in the Western Cape that qualifies under the rural subsidy. The project is to build houses for 50 people with informal land rights to a certain piece of land. The people's names are on the housing list. 'Housing Holdings' sends the project proposal to the Department of Local Government and Housing. It includes details about the project, including the names and identity numbers of the beneficiaries, a letter from the traditional authority supporting the project and the subsidy amount being requested. The subsidy application is approved by the Department. Housing Holdings is the implementing agent.

## **What happens if you are living with disabilities?**

In addition to the housing subsidy, beneficiaries with disabilities may qualify for extra funds to provide facilities such as handrails, visual doorbell indicators, kick plates to doors, slip-resistant flooring and vinyl folding doors, where applicable. These extra funds are available for those who have lost their vision, who have hearing problems, are in wheelchairs, or who have little or no use of their arms.

All subsidy applications by disabled persons must include a medical certificate about the disability.

**EXAMPLE: People living with disabilities**

Mrs Ria Jantjies applied for and received a non-credit linked individual subsidy to buy a house (see page 4 above). However, shortly before she moved into her new house her husband's brother attacked her when she accused him of stealing and she lost most of her hearing as a result of the injuries she received. In addition to her housing subsidy, Mrs Jantjies applied for and received funds to install a visual doorbell indicator at her new house.

**For more information**, contact the Department of Local Government and Housing on 021 493 2342.

### **What happens if you have serious health problems?**

Beneficiaries with serious health problems, who are permanently or temporarily unable to build their own homes through the Peoples Housing Process (see below) and who do not earn more than R3 500 per month, qualify for the full current housing subsidy.

#### **EXAMPLE: Beneficiaries with serious health problems**

Mrs Zanele Mila suffers from a bone disease that prevents her from carrying out heavy manual labour. When she applied for a housing subsidy, she also submitted a certificate from a registered medical doctor stating that she is not fit to take part in building her house. Her application was approved and she was granted the full subsidy amount.

### **What happens if you are elderly and living with disabilities?**

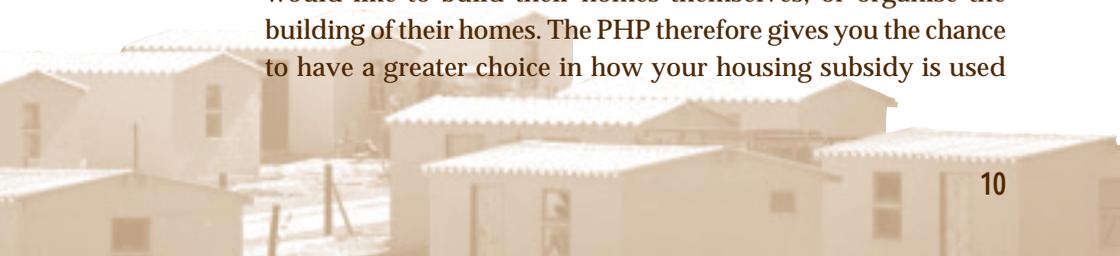
Beneficiaries who receive a social grant from the state (a pension), and who do not earn more than R3 500 per month, qualify for the full current housing subsidy.

#### **EXAMPLE: Elderly people with disabilities**

Portia, a 76 year-old woman, is unable to walk and has to use a wheelchair to get around. She lives with her grandchildren. She applied for a housing subsidy and was given the full amount.

### **What happens if you want to build or organise the building of your home yourself?**

The Peoples Housing Process (PHP) is for beneficiaries who would like to build their homes themselves, or organise the building of their homes. The PHP therefore gives you the chance to have a greater choice in how your housing subsidy is used



by being directly involved in the whole process. You can save on labour costs by doing some of the building work yourself.

The process is supported by a support organisation and extra funds are available to pay for this. Technical and other forms of help are given in the building process.

**EXAMPLE: Building your own home**

Mrs Sibongile Lobola owns a piece of land that she received during the time of the apartheid government. She would like to build a house on this land and wants to do some of the building work herself. She is eligible for a subsidy. She joins a new support organisation, called 'Housing Development Corporation' (HDC), which was formed by other people in the same situation as Mrs Lobola. 'HDC' submits an application to the provincial Department of Local Government and Housing on Mrs Lobola's behalf. The application is approved. As Mrs Lobola can help to build her house, she only has to pay, from her own pocket, for drawing up the plan of the house and for connection of the municipal services.

**For more information** on the PHP and to find out if there's a facilitator in your area and what you will have to pay, call the Deputy Director, PHP, on 021 483 4194; or fax 021 483 4510; or contact your nearest municipal offices.



## What is the financed linked individual subsidy programme?

This is a programme to help beneficiaries to buy existing houses or serviced residential land that is linked to a house-building contract with registered homebuilders. The programme subsidises the deposit. The programme is different from the credit-linked individual subsidy as it is for households earning R3 501 to R7 000 and which have been given loans by financial institutions to buy a house. The amount that beneficiaries receive is based on their income.

### **EXAMPLE: Financed linked individual subsidy programme**

Mrs Sandra Schoeman earns R4 500 per month. Her name is on the housing list. She decides that she wants to buy a flat. She gets a loan from 'Credit Bank' to buy a flat in a block in Manenberg that the 'Western Cape Home Builders' recently renovated. Her application for the financed linked individual subsidy is granted and the amount given is used to pay the deposit for the house.

## Who qualifies for a housing subsidy?

To qualify for a housing subsidy you:

- Must have a total household income of less than R3 500 per month.
- Must be a South African citizen or permanent resident.
- Must be 21 or older.
- Must be married or live with a partner; or be a single or divorced person with one or more dependants. This does not apply to people with disabilities.
- Must not have received a housing subsidy before. This applies to your partner, too. However, this does not apply to everyone. For example, someone who received only vacant serviced land under the apartheid government, through ownership, leasehold or deed of grant, can receive a consolidation subsidy. Nor does it apply to people who qualify for relocation assistance, people with disabilities, or people who received institutional subsidies. Also, a person

who can provide proof that they were not awarded a house as part of a divorce order may be eligible.

- Must not own or have owned property in South Africa. This applies to your partner too. This does not apply to persons with disabilities.

You cannot apply for a subsidy if you have already received a grant from the Department of Land Affairs.

## How do you apply for subsidies?

You can get the application forms from:

- your local or district municipality;
- the housing department in your area; or
- the Provincial Department of Local Government and Housing.

The forms must be correctly filled in and then handed in at your local municipal office. The municipality must counter-sign projects aimed at specific groups in the form of institutional subsidies.

Applications for individual subsidies can be sent directly to the Provincial Department of Local Government and Housing.

The Provincial Department of Local Government and Housing checks and approves or rejects people applying for housing subsidies.

**For more information contact** the local municipal office or housing department in your area.

## What documents are needed when you apply for a subsidy?

The following documents must be sent with your application form:

- If you are a **South African citizen**, you must send a certified copy of your bar-coded identity document (ID), that of your partner (if you are married), and the birth certificates of your financial dependants.
- If you are a **foreigner**, you must send a copy of your Permanent Residency Permit and those of your partner (if married) and dependants.
- A certified copy of your most recent **payslip**, which is less than six months old, must be sent as proof of your income.
- If you are **married**, you must send a certified copy of your marriage certificate.
- If you are **divorced** with financial dependants, you must send a certified copy of your divorce order.
- If you are **unmarried but living with your partner**, you must send an affidavit as proof that you and your partner are living together as a couple.
- If you are applying for a housing subsidy for the **disabled or health stricken**, you must include a medical certificate from a registered medical doctor as proof of the disability or health problems. You must also send an application for exemption from any financial contribution.
- If you are applying for a **non-credit linked individual subsidy**, you must include a certified copy of the signed agreement of sale for the property. If you are applying for a **credit-linked individual subsidy**, you must include the signed agreement of sale as well as proof that the bond on the property has been approved by a financial institution. The sale of the property must be made conditional on your receiving the subsidy.
- If you are applying for **relocation assistance**, you must send a completed application form to Servcon Housing Solutions. You must also include a certified copy of the Rightsizing Agreement

(see above on page 7) and a certified copy of the sale or lease agreement for the rightsized property. If you have a bond, you must also include a letter to confirm this.

- In respect of the **PHP**, you must include proof of ownership of the property (a copy of the title deed), and the House Building Support Agreement. If you have lost your title deed, you can apply for a new one, for a small fee, at your local municipality or at the **Deeds Office** at New Revenue Building, 90 Plein Street, Cape Town; phone 021 464 7600; or fax: 021 464 7725.

**Owning a home: Transferring the title deed into your name.** When you buy or take over ownership of a property, the title deed of the property (the certificate that proves ownership) must be transferred into your name. This title deed is proof that you are the owner of the property. Conveyancing attorneys do the transfer of title deeds into the name of the new owner of the property. You will only become the owner of the property when the Registrar of Deeds at the Deeds Office signs the transfer. A copy of the title deed is kept at the Deeds Office. Anyone can check who the owner of a property is at the Deeds Office.

**For more information on subsidies**, such as the subsidy amounts, contact the housing subsidies helpdesk on 021 483 2342 between 8h00 and 16h00, Mondays to Fridays.

## POINTS TO REMEMBER

### City of Cape Town Housing Registration Process

- People who apply to be on the Housing Database must show proof that they have lived in the Cape Metropolitan Area for at least two years.
- You need your ID to register.
- You must complete a registration form and a national Subsidy Application form.
- You must say what kind of housing you would like.
- You have to register yourself. No organisation may register on your behalf.
- It is your duty to inform the Council of any change in your personal particulars and circumstances (e.g. change of address, change of marital status).
- Remember to get a reference number because this is proof that you are on the Register.
- Four times every year, the Council sends a list of new registrations to the Provincial Department of Local Government and Housing for consideration.
- You will be issued with a Registration Card if your application is successful.

*Housing Allocation Policy of the City of Cape Town, adopted by  
Mayoral Committee on 6 October 2004: MC 20/10/04*



## PART 3: ENHANCED EXTENDED DISCOUNT BENEFIT SCHEME

### What is the discount benefit scheme?

This is a subsidy mechanism for transferring rented houses that were built by the previous government to qualifying beneficiaries. The scheme helps tenants to get state-financed rental housing. It also helps people who bought properties from the state to settle the balance they owe. People who received housing loans from the state are helped to pay the balance of their loans. The scheme therefore promotes home ownership for tenants or debtors who live in state-financed housing, including serviced land.

### Who qualifies for the benefit?

It is available to beneficiaries (tenants) who took occupation of houses built by the government before 15 March 1994.

From 1 December 2005, tenants can get a discount on the selling price of the houses. The discount may not be more than the current individual subsidy amount.

If you have already bought a state-financed property, you can still apply for the benefit so that you can pay off the balance you still owe to the Provincial Department of Housing and Local Government or the municipality. If the subsidy is not enough to pay the full balance you owe, you will have to use your savings or get a mortgage loan to pay off the rest.

#### **EXAMPLE: Enhanced extended discount benefit scheme**

Mrs Zandi is a secretary at 'Business Holdings'. She bought a house from the City of Cape Town years ago but has not been able to pay all the money she owes for it. She applies for a subsidy under the Enhanced Discount Benefit Scheme. Her application is approved and the subsidy is given to her. The amount covers 90% of what she owes to the City for her house. She then borrows money from her employer to pay off the other 10%.

No-one who has bought a property from the government and paid the full price can get a refund.

**For more information** on other conditions for this scheme, contact the Department of Local Government and Housing on 021 483 4064.



## PART 4: SOCIAL HOUSING

### What is social housing?

This is a new housing option that is still being developed. It is for persons with low or medium income, not for the poor. Social housing institutions will help to prepare development plans and business plans and find suitable land for housing developments. They will deal with the administration of the properties and will consider the applications of those seeking housing.

### What is a social housing institution?

A social housing institution can either be (1) an institution that mainly provides property management services for a fee to other smaller institutions; (2) an institution that develops, owns and manages its own rental properties; or (3) an institution that has been established by tenant groups as a way of buying and managing their own housing.

Social housing primarily covers the rental housing option but these rental schemes may be converted into ownership in the long term.

#### IMPORTANT POINTS TO NOTE

People who wish to get housing from social housing institutions must earn a secure income. This is because they must be able to afford the rent or other periodic payments for the housing.

The social housing institutions will have their own criteria for allocating housing. They will keep their own housing list and draw from it when units are available. Some tenants may also be drawn from the municipalities' waiting lists.

## At what stage is social housing?

Some pieces of land have been identified for social housing, taking into consideration how close they are to basic services such as schools, hospitals, shops, etc. So far, two social housing institutions have been appointed.

**For more information** on social housing and to find out if you qualify, how you can apply and about the social institutions that have been appointed, contact:

- The Deputy Director, Social Housing, Provincial Department of Local Government and Housing, on 021 483 2584; or fax 021 483 4352; or
- The Head of Social Housing, City of Cape Town on 021 400 2245; or fax 021 419 8845.



## **PART 5: GOVERNMENT RENTALS**

Government rental units (houses and flats) are only provided to low-income beneficiaries and are allocated in a fair and transparent manner. Municipalities must review and adjust the rents each year to make sure that occupants still qualify. An occupant who does not meet the criteria any longer (especially if their income is too high or if they do not meet the property ownership criteria) will be given three months notice to leave the rental unit.

### **Who qualifies for rental units?**

The criteria are similar to those under subsidies. The applicant:

- Must have a combined household income of R3 500 or less per month.
- Must be a South African citizen or permanent resident.
- Must be 21 or older.
- Must be married or cohabiting or single with dependants.
- Must have dependents permanently resident with them.
- Must not own property or habitable accommodation.

### **How do you apply for rental units?**

Submit a written application requesting that your name is included on the municipality's waiting list. You must also include the prescribed application form, which you can get from your local municipality. This form has to be filled in and signed by both you (the applicant) and the municipality. You should then submit the form to the municipality.

### **What documents are needed when you apply for a rental unit?**

The application form must be accompanied by:

- Proper proof of the number of dependants living with you. For example, you can state your family size in an affidavit to the South African Police Service and attach certified copies of the birth certificates of your dependants.

- Certified copies of your pay slips, marriage certificates (if you are married), your identity document and any additional documents that might be asked for by the Department or your municipality.

#### **IMPORTANT POINTS TO NOTE**

The provincial waiting list closed in September 1994 and since then, no new applications have been accepted. You can still apply to be included in the City of Cape Town's Housing Database.

### **What happens if you do not live in the rental unit yourself?**

You must live in the rental unit yourself for at least three months at a time. You are not allowed to use it for storing your furniture only. If you are away from the unit for more than three months, you must give written notice to the Provincial Department of Local Government and Housing or the municipality. Otherwise, it will be decided that you have abandoned the unit. You will be given 30-days notice, telling you to go back to living in the unit. If you do not, the lease agreement will be cancelled. You will be informed of the cancellation.

#### **EXAMPLE: A tenant who moves away for more than three months**

Liany Tertiens is a divorced woman with small children, who lives in a government rental unit in Athlone. Recently, her ex-husband, who used to abuse her, tracked her down and so she decided to go and live with her parents. She left all her furniture and other belongings in the house as she planned to come back eventually. She did not tell the Provincial Department of Local Government and Housing or her local municipality about her temporary move. She was away for four months. To her surprise, the Department gave her 30 days notice to move back into the unit or the lease would be cancelled. Luckily, in less than 15 days, she was able to move back after 'Lawyers for Abused Women' helped her to get a domestic violence protection order against her ex-husband.



## What happens if you want to transfer to another rental unit?

To be transferred to other, more suitable accommodation, you should apply in writing to the Provincial Department of Local Government and Housing or the municipality. As there are few vacancies, this does not happen very often.

You will only be permitted to transfer if:

- A suitable unit is available.
- You qualify for the property that is requested.
- You are not in breach of the lease agreement.
- You are not in arrears.
- You hand over a vacant (empty) unit (the one you occupied before transfer).

## What happens if you want to take over a rental unit from the original tenant?

A situation where you, as an individual, want to take over a rental unit from the original tenant is referred to as 'succession of tenancy'.

Succession of tenancies can only take place if the new tenant qualifies under the Department's qualifying criteria for rental units.

Succession of tenancy is permitted only:

- Where the original tenant has died and the surviving spouse, co-habiting partner or legally enlisted relative lived in the unit with the deceased person. *In this case, you will have to produce the official death certificate of the original tenant.*
- Where the original tenant has abandoned family members while in occupation of the property. The unit is then given to the spouse who retains custody of the children or dependants. If only minor children or dependants are left in the unit, succession of tenancy is given to their legal custodian but only if the legal custodian does not have other suitable accommodation and if they qualify for the rental unit. *In this*

*case, you will have to prove what happened and that you are the legal custodian in an affidavit to the South African Police Service.*

- Where the original tenants have divorced and the person with custody over the children remains in the property. In cases of shared custody of minor children, the former spouses decide themselves about the succession of tenancy. If they disagree, the original lease will continue to operate. *In this case, you must produce the official divorce order.*

#### **EXAMPLE: Succession of tenancy**

Sindiswa and Peter have been married for ten years. They lived with Peter's mother in a house that she rented from the Council. She died in 2003. The couple had a meeting with the Council to apply for the lease to be transferred to them. They produced their marriage certificate and the death certificate of Peter's mother at the meeting. Sindiswa did not insist that her name was included on the lease. The house was transferred into Peter's name as his mother's next of kin. In 2004, when the relationship between Sindiswa and Peter went wrong, Peter hit Sindiswa and forced her out of the house. Sindiswa moved into a shelter for abused women while Peter stayed on in the house with their three children. Sindiswa went to the Council and Mrs Lucas at the Heideveld office told her to wait for the divorce order. The divorce order was granted after four months and Sindiswa was given custody of the three children. Sindiswa went back to the Council with the divorce order and the lease was transferred to her name.

#### **IMPORTANT POINTS TO REMEMBER**

- All tenants must pay rent.
- A registered tenant must live in the rental unit.
- The rent must not be more than a quarter (25%) of your gross monthly income.
- Make sure that the lease has your name on it as a tenant and not just the name of your spouse or cohabiting partner. Both of you must sign the lease agreement.

## PART 6: PRIVATE RENTALS

### The Western Cape Rental Housing Tribunal

#### What does the Tribunal do?

The Western Cape Rental Housing Tribunal gives free services to tenants who rent private accommodation and also to landlords. The Tribunal deals with problems or disputes between landlords and tenants. It also informs them about their rights and obligations in terms of the Rental Housing Act No 50 of 1999.

#### **EXAMPLE: Unable to afford rent for private accommodation**

Mrs Deeya Naidoo is a divorced 20 year-old mother of one child who rented a flat in Rylands. All went well until her former husband stopped paying maintenance and she was unable to pay the rent. Her landlord said that in terms of the lease on the flat, she would be evicted. Her landlord also threatened to take her possessions. Mrs Naidoo approached the Tribunal and found out that in terms of the Rental Housing Act, the landlord could not take her possessions without a court order and that if he did so, it would be theft. However, after another two months, her former husband began paying maintenance again. Mrs Naidoo and her landlord agreed that she would pay off the money she owed for rent over a year.

#### How do you lodge a complaint with the Tribunal?

Obtain a complaints form from the Tribunal, complete it and submit to the Tribunal. A case file will then be opened and a reference number will be given to you.

#### **For more information on the Tribunal, contact:**

The Western Cape Rental Housing Tribunal, Private Bag X9083, Cape Town, 8000

Department of Local Government and Housing, 27 Wale Street, Ground Floor, Cape Town

Call 021 483 2099, 483 2111, 483 2189, 483 3944, 483 4383; or fax 021 483 2060

# PART 7: MAKING COMPLAINTS ABOUT DEFECTS IN SUBSIDISED HOUSING

## What happens when you have defects in your house?

Structural defects in houses that have been subsidised by the government can be rectified (fixed). The procedure is as follows:

1. Rectification of houses delivered between 15 March 1994 and 31 March 2002

Defects to houses that were built between 15 March 1994 and 31 March 2002 can be rectified. This applies to houses with structural defects where the municipal services were inappropriate.

### **EXAMPLE: Structural defects caused by inadequate drains**

Magdalena Dampies moved into a new government housing development at Delft in 1996, along with her husband and their four children. Their house was built at the edge of the development. A year after they moved in they noticed that the walls had a lot of damp and the house was getting very mouldy. The problem got worse after the winter rains. Other houses nearby were also affected. The residents found out that the municipality had not installed enough storm water drains when the development was built. Rainwater had nowhere to go and was pooling around the houses and seeping into the foundations, causing the damp problems. The residents reported the problem to the municipality, which agreed to rectify it before the next winter rains.

**For more information on this programme,** contact your local municipal office.

2. Rectification of houses delivered after March 2002

From 1 April 2002, the Housing Consumer Protection Measures Act 95 of 1998 (the Act) protects people who receive subsidised housing. This means that they can lodge complaints with the National Home Builders Registration Council (NHBRC) about structural problems in their houses. Examples of structural problems are cracking walls, weak doors and roofs, and insecure

buildings. The Act says that the builder of the home must fix structural defects that develop during the warranty period of five years.

## How do you lodge a complaint with the NHBRC?

Before you lodge a complaint with the NHBRC, you should:

- notify the builder in writing, within the five-year period, of all the complaints that need his attention;
- keep a copy of the letter of complaint and proof of the date that it was sent to the builder;
- allow the builder reasonable access to the house to fix the defect; and
- make sure you meet all financial obligations to the builder.

You should only approach the NHBRC with your complaint after the builder has failed to respond to your complaint in the necessary time or where there is a dispute between yourself and the builder.

To lodge the complaint, you need:

- proof of the date you occupied the house.
- proof that you told the builder in writing about the problems, within the necessary timeframes.
- a list of the problems.

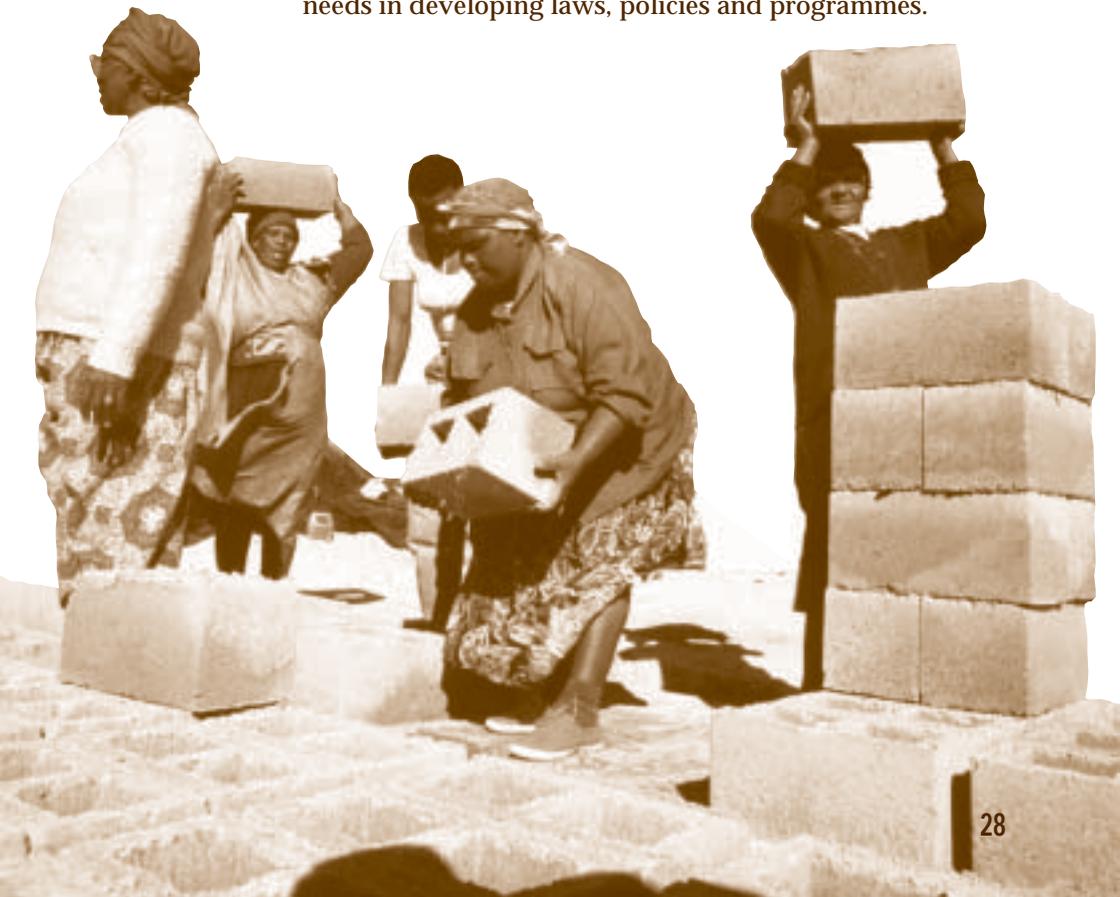
### **EXAMPLE: Lodging a complaint with the NHBRC**

Magdalena Dampies' cousin, Susanna, moved into another government housing development, also in Delft. Within weeks of moving into their new houses, Susanna and four of her neighbours noticed that cracks were developing in some of the outside walls and above the doorways inside the house. Susanna and her neighbours wrote several letters of complaint to the building contractor but he did not reply. Finally, two years after they moved into their houses, they lodged a complaint with the NHBRC, listing all the structural problems and what they had done to try and get the builder to fix them. The builder was instructed by the NHBRC to fix the problems, which he eventually did.

## PART 8: CONCLUSION

What can you do to improve the housing rights of women vulnerable to GBV and HIV/AIDS?

- Become familiar with housing policies.
- Form special committees to discuss the special housing needs of women, people living with disabilities and other disadvantaged groups.
- Develop strategies and promote action against discrimination in housing.
- Monitor the development and implementation of policies and laws to ensure equality in housing for women and other disadvantaged groups.
- Lobby the government to properly address these special needs in developing laws, policies and programmes.



**For further information** on accessing housing in the Western Cape, contact:

The Department of Local Government and Housing  
Provincial Government of the Western Cape

Physical address: ISM Building, 27 Wale Street, Cape Town 8001

Postal address: Private Bag X9083, Cape Town 8000

Call 021 483 5200, 483 5325, 483 4641, 483 3977; or fax 021 483 8789

The City of Cape Town

Human Settlement Services

Physical address: 21st Floor, Civic Centre

Call 021 400 3821, or fax 021 419 8845

**If you are experiencing domestic violence or sexual assault, or if you believe that you are at risk of HIV/AIDS, please contact:**

Saartjie Baartman Centre for Women and Children

Physical address: Old Avalon Building, Klipfontein Road, Manenberg  
(opposite the Western Cape Nurses' Training College)

Postal address: P O Box 38401, Gatesville 7764, Cape Town

Call 021 633 5287, or fax 021 637 3487

