

ABDULLAH AND WOMEN'S LEGAL CENTRE TRUST V THE CITY OF CAPE TOWN

WOMEN'S RIGHTS TO LAND, HOUSING AND PROPERTY



HOUSING SCHEME CONSTRUCTED BY THE LOCAL AUTHORITY

The City of Cape Town's erstwhile housing policy known as the "Housing Scheme Constructed by the Local Authority" is invalid in that it discriminates against women who were not recognised as either co-purchasers or co-owners upon transfer of housing units they received from the City under the policy.

Women were therefore not able to sign the agreement with the City when their housing units became available for transfer and were allocation was solely made to male beneficiaries.

Women's personal details were not captured on the database of the City or their billing system. In effect, when the transfer of these housing units become due the properties were only being transferred to male beneficiaries, leaving women without access to housing that they jointly contributed to.

The implementation of this policy led to women being vulnerable to eviction because they had no proof that they were co-purchasers or co-owners of the housing unit.

This also means that women are prone to homelessness because they could never be eligible for houses under any other social housing scheme because they would have benefited under their husbands.



THE ALLOCATION OF HOUSING UNITS FOR MARRIED MEN

The sale agreements entered into under the Policy did not reflect female spouses as co-purchasers, at the date of allocation of the housing units. This meant that housing units were in essence being transferred to the married men or men who could show that they were heads of a household where there were dependants. Women were relegated to dependants of their husbands and could not enjoy equal ownership rights once all the terms of the agreement was met and transfer could be effected.

The implementation of the Policy excluded the recognition of women in any official documentation related to the property, which means that when their rights of ownership or occupation were challenged, they are unable to defend themselves.



The City has indicated that their Housing Needs Database shows that approximately 52 249 beneficiaries were allocated housing up to 31 March 1998.

HOUSING NEEDS DATABASE

The information on the Housing Needs Database does not include the marital details of the beneficiaries or the type of housing unit that was allocated to them. There is, therefore, a gap in important information. This information will allow the City to identify the women who are affected by the implementation of the Policy through the agreements entered into between the male beneficiaries and the City.

The City has included a notice on their monthly invoice advising beneficiaries who were allocated these housing units of the need to update the records and ensure that your details are adequately captured on their database.



WESTERN CAPE (EQUALITY) HIGH COURT DECLARES THE CITY OF CAPE TOWN HOUSING POLICY TO BE INCONSISTENT WITH THE CONSTITUTION.

On 14 February 2023 the Western Cape (Equality) High Court declared the City of Cape Town's erstwhile Housing Policy to be inconsistent with the Constitution.

WHAT DOES THIS MEAN FOR WOMEN?

The City shall transfer the housing units to the now-recognised co-owners (both male and female) in an equal and undivided share when the transfer of the housing unit becomes due.

Pending the transfer of the housing unit, the City will be unable to transfer the housing unit only to the male spouse. This means that both spouses (purchaser and co-purchaser) will be jointly responsible to meet the obligation in terms of the sale agreement.

Both the purchaser and the co-purchaser are entitled to full and equal rights in terms of occupation, use and access to the property.



WHAT TO DO IF YOU ARE A BENEFICIARY OF THE HOUSING SCHEME CONSTRUCTED BY THE LOCAL AUTHORITY?

If you believe that you are a beneficiary of the Housing Scheme Constructed by the Local Authority, it is important that you make the necessary enquiries so as to ensure that you are recognised as a co-purchaser of your housing unit and provided with the necessary financial information in respect of the housing unit.

You can do this by contacting your local housing office in your community or calling the City of Cape Town's help desk on 021 444 0333.



THE WOMEN'S LEGAL CENTRE WELCOMES THE FINALISATION OF THE ABDULLAH AND WOMEN'S LEGAL CENTRE TRUST V THE CITY OF CAPE TOWN.

This matter was instrumental in ensuring women's rights to housing are recognised and protected.

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