



THE SPEAKER
COUNCIL ITEM

SUBJECT : PAYMENT OF MARKET RELATED RENTALS ON REFURBISHED MUNICIPAL RESIDENTIAL RENTAL PROPERTIES: EXEMPTION OF OMEGA AND STILLERUS OLD AGE HOMES

1. PURPOSE

The purpose of this submission is to seek Council approval for the exclusion of Omega and Stillerus Old Age Homes from paying market related rentals as determined by the City Valuer.

2. STRATEGIC INTENT

Promote Sustainable Human Settlements and Improved Quality of Household Life

3. FOR CONSIDERATION AND DECISION BY

Council

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4. BACKGROUND

According to the Rental Housing Act, 1999 (Act 50 of 1999), as amended; the responsibility of Government in respect of rental housing property include, *among other things*, the creation of mechanisms to promote the provision of rental housing property; to promote access to adequate housing through creating mechanisms to ensure the proper functioning of the rental housing market and to provide for the facilitation of sound relations between tenants and landlords.

One of the more contentious issues between a landlord and the tenant is almost always the general state of repair and ongoing maintenance and repair issues that crop up within a tenancy. The Rental Housing Act, 1999 and the regulation being the 'Unfair Practices Regulations (Procedural and Unfair Practice Regulations, 2008) provides clarity on the matter. The regulations are clear that the obligation of any landlord is to offer the property at the rental commencement in a condition 'reasonably fit for the purpose for which it is meant'. The regulations further expand to say that the landlord is responsible for repairs and maintenance as defined in the lease or as found at the 'incoming inspection' of the property. The landlord is also required to keep and maintain the property in accordance with Health and Safety standards and any local and relevant law."

In keeping with the Procedural and Unfair Practice Regulation provisions; on the 05 February 2015 the Mangaung Metropolitan Municipality appointed a Service Provider to maintain and bring the municipal residential rental properties in line with the Health and Safety standards. To date the following residential schemes have been refurbished and completed: Bloemhof; Stillerus; Lourierpark (*Tenderwood; Honeybell; Kruisbessie*) and Omega. Structural assessments have been performed at Alpha; Reenboog; Lentehof and De Houtman.

5. DISCUSSIONS

On completion of the first set of rental properties; the City Valuer was engaged to determine the normal market rentals. The the following rates were determined for the following residential properties:

- 5.1 Bloemhof : R 3 500
- 5.2 Lourierpark (*Tenderwood; Honeybell; Kruisbessie*) : R 3 000

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5.3 Stillerus (bachelor unit)	: R 1 500
5.4 Stillerus (single bedroom unit)	: R 2 000
5.4 Omega	: R 1 500

The Municipality has valid leases with all the tenants in these rental properties. Section 5 of the Rental Housing Act, 1999 gives direction in terms of matters pertaining to leases. Subsection 6 provides that "A lease contemplated in subsection (2) must include the amount of rental of the dwelling and **reasonable escalation**, if any, to be paid in terms of the lease". The Rental Housing Act Unfair Practices Regulations also reiterates that an increase needs to be negotiated with the tenant and needs to be reasonable." These clauses open the door for negotiations between the tenant and the landlord. If the landlord and tenant find that they cannot agree on such an increase; the option left to both parties would be to give notice. The landlord therefore may be within his rights to give the tenant notice of the lease's termination for the length of time stipulated in the lease. Similarly, the tenant can also give notice and vacate the premises.

It is critical to note that the termination of the lease in respect of rental housing property should not constitute an unfair practice [Relations between Tenants and Landlords (ss 4-5)]. To stay within The Rental Housing Act Unfair Practices Regulations reasonableness, Council must consider the following when adjusting rentals to market related rentals:

- a) South Africa's property laws as they stand place no limits as to the amount by which a landlord can increase the rent on his property, but in general, most properly drawn up leases incorporate a clause specifying that an annual increase will be an agreed percentage (*quite often around 10%*).
- b) Landlords need to take into account that the Rental Housing Act Unfair Practices Regulations states that an increase needs to be negotiated with the tenant and that the increase needs to be reasonable.
- c) General rules around rent increases for any tenancy provide that the landlord must get the tenant's permission if they want to increase the rent by more than previously agreed and that the rent increase must be fair and realistic.
- d) Guidelines in the sector provide that 30% is the threshold or the maximum percentage of gross salary that one should spend on rent or mortgage.

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6. APPLICATION OF THE MARKET RELATED RENTALS

The adjustment of rentals to market related rentals in respect of Bloemhof and Lourierpark (*Tenderwood; Honeybell; Kruisbessie*) rental housing schemes will be dealt with in terms of the Standing Council Resolution 109H (7) dated 25 October 2007 (Annexure A).

Omega and Stillerus rental housing schemes are Old Age Homes. All the tenants in these rental schemes receive old age and/or disability grants to the tune of R 1 600 per person (Annexure B). The 30% threshold puts the affordability of all these tenants at R480.00 rental per month. The application of the market related rentals of R 1 500.00 on these schemes as determined by the City Valuer will 'swallow' the entire amount paid by the State towards the survival of these Citizens resulting in their immediate displacement. The City as the landlords need to also take into account that the Rental Housing Act Unfair Practices Regulations states that an increase needs to be reasonable.

7. RECOMMENDATIONS

It is recommended that:

- 7.1. Council takes note of the market related rentals payable on the recently refurbished Omega and Stillerus Old Age Homes,
- 7.2. Council grant approval for the exclusion or exemption of Omega and Stillerus Old Age Homes from paying market related rentals as determined by the City Valuer,
- 7.3. Processes and engagements with all relevant stakeholders be commenced with to ensure the establishment of effective and efficient property management structure and systems for Omega Old Age Home,
- 7.4. The 30% threshold of the gross salary, being the old age grant, be implemented in Omega Old Age Home,

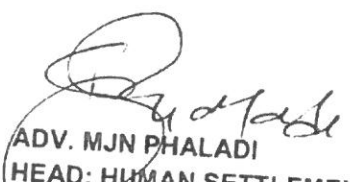
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7.5. Council takes note that all tenants at Stillerus Old Age Home are already paying an equivalent of the 30% threshold of the old age grants received, and

7.6. The application of the maximum percentage in 7.4 above be applied within the confines and provisions of the Rental Housing Act Unfair Practices Regulations, 2008.


MD MOKOENA
GM: MIXED DEVELOPMENTS

Supported / ~~Not Supported~~


ADV. MJN PHALADI
HEAD: HUMAN SETTLEMENTS


DATE 27.3.18

Supported / Not Supported


ADV. T MBE
CITY MANAGER

DATE 6/04/2018

Recommended / ~~Not Recommended~~


CLR SM MLAMLELI
EXECUTIVE MAYOR

DATE 06/04/2018