

REAL ESTATE ALERT

IN THIS ISSUE

BRIEF SUMMARY OF THE CITY OF JOHANNESBURG DRAFT POLICY ON INCLUSIONARY HOUSING

On 28 February 2018, the City of Johannesburg Metropolitan Municipality (COJ) published the draft policy, Inclusionary Housing: Incentives, Regulations and Mechanisms (Draft Policy), for public comment. The Draft Policy aims to make provision for the implementation of inclusionary housing in the City of Johannesburg in accordance with the 1) Spatial Development Framework 2040 for Johannesburg, 2) Spatial Planning and Land Use Management Act 16 of 2013, and 3) City of Johannesburg Municipal Planning By-Law, 2016.

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COJ may take action against developers who do not comply with the conditions for inclusionary housing outlined in the development approvals.

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The Draft Policy defines 'inclusionary housing' as a housing programme that requires private developers to let a certain percentage of new housing developments to low income and low-middle income households at an affordable cost.

In terms of the Draft Policy, inclusionary housing is to be mandatory for any development in the City of Johannesburg which consists of 10 or more dwelling units. It requires that a minimum of 20% of the dwelling units developed must constitute inclusionary housing units. The requirement for inclusionary housing will be embodied as a condition for the approval of the relevant development by COJ and will find application in perpetuity or until removed by COJ by resolution.

COJ may take action against developers who do not comply with the conditions for inclusionary housing outlined in the development approvals.

Inclusionary housing units must be located on the same site or within the same township as the remainder of the residential units being developed. They must include a private bathroom, contain at least seven square metres of habitable space per person (and measure no less than 15 square metres), have the same outward appearance as the other residential units, and share common spaces and facilities as well as access thereto.

COJ seeks to promote two types of management structures in respect of inclusionary housing, being social housing managed by an accredited Social Housing Company (in terms of the Social Housing Act 16 of 2008) or the private ownership and rental of the inclusionary housing units. In regard to the latter, and particularly in respect of sectional title developments, the Draft Policy provides that the inclusionary housing units must be owned, managed and rented out by the body corporate and that rentals,



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including levies but excluding utility bills, cannot exceed R2100,00 per month (for 2018). However, it must be noted that the body corporate of a sectional title scheme comprises all of the owners of the various units situated within the relevant scheme (Section Owners). Accordingly, the inclusionary housing units will in essence be owned by the Section Owners. This may pose practical difficulties and give rise to potential disputes between Section Owners.

The Draft Policy provides for certain incentives for developers to which this requirement of inclusionary housing applies. However, these incentives will:

- 1) only apply to a maximum of 50% of the total dwelling units in a development,
- 2) apply proportionally to the percentage of inclusionary housing units developed, and
- 3) will not be capable of being applied retrospectively to land use/development applications approved prior to the adoption of the policy.

The above incentives will include, *inter alia*, decreased parking requirements, density bonuses, and relaxed street building lines. Furthermore, the inclusionary housing units will be liable for lower parks contributions as well as lower engineering service contributions. Finally, COJ intends to provide for a rates rebate in respect of inclusionary housing units, which rebates will, however, first have to be applied for and approved by COJ.

The Draft Policy is accessible at http://bit.ly/coj_inclusionary and the deadline for submission of public comments on the Draft Policy is 30 April 2018. We encourage all stakeholders and affected parties to peruse the Draft Policy and submit their comments addressed to dylanw@joburg.org.za before the due date.

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