



Informal backyard rental housing

Policy options
and a delineation
of responsibility

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Acknowledgements

Backyard Matters is a partnership initiative between Development Action Group (DAG) and Isandla Institute. The project is aimed at strengthening the backyard rental market and contributing towards well-managed, quality rental stock that provides affordable, dignified and safe housing solutions. Backyard Matters is funded by Comic Relief.

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Policy options and a delineation of responsibility

The informal backyard rental sector is increasingly being recognised as a growing, community-led solution to the need for affordable accommodation and to current housing deficits. But while backyard accommodation provides an important housing solution, it may not always result in dignified homes, secure tenure, and adequate access to services. Despite the sector's size and growth, backyard housing has remained virtually invisible to public policy and urban programmes – this needs to change.

As part of the Backyard Matters project, Isandla Institute in collaboration with the Development Action Group (DAG) and Violence Prevention through Urban Upgrading (VPUU) carried out enumeration studies and focus groups with backyard landlords and tenants in eight Cape Town neighbourhoods in 2020. This research and the insights that it generated have resulted in a series of publications focusing on various aspects of backyard housing. The purpose of this document is to distil the recommendations and policy lessons put forward in these publications into a concise and coherent position. The bulk of the position paper focuses on potential interventions and a delineation of responsibility between different governmental spheres.

It is important to note that the potential interventions listed in this position paper do not include information relating to micro-developers, many of whom also construct formal housing in backyards. While micro-developers also play an important role in increasing the supply of affordable housing, it is the informal backyard rental sector that serves as the focus here. It should also be noted that the interventions below are largely based on data collected in Cape Town, and that we do not assume that the backyard housing sector functions in the same way across South Africa. Even within Cape Town, the research revealed important variances in the sector, again highlighting that backyard housing is not homogenous. A final disclaimer is that the focus of this document is on existing backyard realities rather than potential interventions in the planning and building of new settlements.

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Key principles applying to all interventions

Despite the diversity of both the backyard rental housing sector and the potential interventions that could be implemented, there are a set of key principles that should apply to all interventions in the sector:

Attention and resources need to be dedicated to improving safety and liveability.

- Backyard rental markets and owner/tenant needs and interests vary across neighbourhoods, are dynamic, highly contextual, and have two critical attributes: affordability and flexibility. Therefore, a one-size-fits-all approach is not appropriate.
- Backyard housing provides an important yet imperfect housing solution that is responsive to the needs of a significant section of the urban population. It provides a substantial amount of much-needed affordable housing. As such, it is imperative to ensure that policy interventions do not have unintended consequences that damage the sector's current affordability and flexibility.
- The quality of neighbourhoods and the public realm is important and was raised in all neighbourhoods surveyed during our research. Attention and resources need to be dedicated to improving safety and liveability.
- Backyard housing is an important source of income for many landlords, especially older women. The sector offers opportunities for economic empowerment – and this should be recognised and acted upon.
- Social factors can play a vital role in the backyard rental housing market. As such, it is important that interventions account for the influence of social relations on the sector, and that they do not unnecessarily disrupt these relations.
- Monitoring and learning needs to be given primacy when implementing any interventions in the backyard sector. It is important to learn from successes and failures, and to rapidly incorporate these learnings into any further interventions.

Risks

Many interventions carry some degree of risk. Given that the informal backyard housing sector largely functions relatively well, and that tenants generally seem to experience high levels of tenure security – even in the absence of formal lease agreements – it is important to consider the risks associated with particular interventions:

- Formalised lease agreements may compromise the flexibility of the sector. They may also be inappropriate or undesirable in contexts where the relationship between tenants and landlords is familial or kinship based.
- Formalised lease agreements may act as a deterrent for prospective landlords, thereby limiting supply.
- The Rental Housing Tribunal is under resourced, and there is therefore a possibility of inflating people's expectations of the support it can realistically provide.
- Relaxing stringent building regulations may have unintended consequences for housing quality if it is not approached with the necessary care and sensitivity.
- Perhaps the largest risk of interventions in the backyard housing sector is that of gentrification. As housing quality improves it is highly likely that housing prices will too. While this is good from an asset creation and growth perspective, it could also lead to displacement, evictions, and people on lower incomes struggling to find housing in areas that suit their needs.

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Existing backyard housing realities and the importance of context

Interventions into backyard rental markets need to be contextually appropriate to ensure that support has the greatest possible positive impact and that it does not yield unintended negative consequences. Overleaf are a set of scenarios that are based on research conducted as part of the Backyard Matters project, as well as a set of corresponding potentially relevant interventions for each. It is important to note that these scenarios are based on research conducted in Cape Town, and should not be seen as exhaustive. The key point, as demonstrated by the scenarios, is that there is a diversity of backyard rental housing contexts and that interventions need to be tailored accordingly.

Potential interventions and spheres of government responsibility

| Category | Intervention | Municipal | Provincial | National | Notes |
|--|---|--------------------------------------|------------|----------|---|
| Access to quality services | 1 Access to services at household/erven level | ✓ | | | Municipalities are directly mandated to provide services by both the Constitution and the Municipal Systems Act. |
| Tenure security | 2 Formalised lease agreement templates in all official languages | | | ✓ | The Draft Rental Housing Amendment Act (2021) mandates national government to develop pro-forma lease agreements in all 11 official languages. |
| | 3 Popularisation of the role and functioning of the Rental Housing Tribunal | ✓ | ✓ | ✓ | While all three spheres of government could share this role, municipalities could take the lead through Rental Housing Information Offices. |
| | 4 Rights based education for landlords & tenants | ✓ | ✓ | ✓ | While all three spheres of government could share this role, municipalities could take the lead through Rental Housing Information Offices. |
| | 5 Access to legal recourse | ✓ | | | Purely a municipal role, that takes the form of referral and facilitation rather than direct provision. Again, Rental Housing Information Offices could take the lead. |
| | 6 Conflict resolution mechanisms/referrals | ✓ | ✓ | ✓ | All three spheres could play this role, although Rental Housing Tribunals are a provincial responsibility. |
| | 7 Improved tenure security for landlords through provision of title deeds | ✓ | ✓ | ✓ | While issues relating to title deeds largely fall under national government's responsibility, municipalities and provinces have also been involved in providing title deeds and are encouraged to continue doing so using the HSDG. |
| | Increased housing quality | 8 Prototype housing design templates | ✓ | | |
| 9 Awareness raising and capacity building of planning and building regulations | | ✓ | | | Municipal role that could be supplemented by the National Home Builders Registration Council. |
| 10 Access to affordable, durable, and sustainable building materials | | ✓ | | ✓ | Referral and regulation rather than direct provision. While all three spheres of government can promote the use and availability of affordable, durable, and sustainable building materials, national government is responsible for regulating building materials and therefore has the largest role to play. Local government can potentially include these materials in specifications for contractors, micro-developers and financiers of improved housing structures. |

Potential interventions and spheres of government responsibility

| Category | Intervention | Municipal | Provincial | National | Notes |
|---|---|-----------|------------|----------|--|
| Increased housing quantity | 11 Provision of building support (e.g. a database of qualified local contractors) | | | | Municipal role fulfilled through Housing Support Centres (please see relevant endnote). |
| | 12 Relaxation of stringent building regulations so they are fit for purpose for backyard context | ✓ | | ✓ | Largely a national role, although municipalities could also contribute through their administration of the National Building Regulations. |
| Increased housing quantity / quality | 13 Simplified planning approval process | ✓ | | | Purely a municipal role, as stipulated by the Constitution. |
| | 14 Pre-approved development plans to reduce red tape and incentivise quality structures | ✓ | | | Purely a municipal role, as stipulated by the Constitution. |
| | 15 Capacity building targeted at both construction and property management skills | ✓ | | | Largely a municipal role that could be fulfilled through Housing Support Centres. The National Home Builders Registration Council could also contribute here. |
| | 16 Associations of backyard rental landlords and developers | ✓ | ✓ | | Provincial and municipal governments could help create industry associations that engage in capacity building and represent the interests of their sector. |
| Increased quantity / access to quality services | 17 Ensuring zoning schemes allow for multiple homes on one erf, and that the zoning schemes of different areas match their bulk infrastructure capacity | ✓ | | | Purely a municipal role, as stipulated by the Constitution. |
| Improved policy environment | 18 Enabling policy environment that guides the approach to backyard housing | ✓ | ✓ | ✓ | National, provincial, and metropolitan municipality governments could all contribute to an enabling policy environment. It is important to note here that backyard housing takes many different forms, and that localised policy frameworks that are context specific therefore have a large role to play. |
| Improved funding environment | 19 Enabling funding environment that helps to unlock the potential of the sector | | | ✓ | National government is responsible for grant funding, and should therefore take the lead here. |
| | 20 Improving access to finance and creating enabling conditions | | | ✓ | National government should attempt to bring additional stakeholders on board who can offer access to finance. Importantly, many of the other interventions listed above would also contribute to a more enabling environment for increased access to finance. |

Backyard housing scenarios

→ Scenario 1: Established township A

- Council housing
- Most landlords: 50+ years old
- Landlord households: 3 members
- Tenants: 20-29 and 40-49 years old
- Tenant households: 3-4 members
- 60% of tenants unemployed; 75% earns <R3500
- Backyard structures: wood and brick
- Services: in main house
- Average rent: R1000, service contributions
- Tenants often family/acquaintances of landlord
- Tenants have always lived in the neighborhood

Potential interventions

1, 2, 3, 4, 5, 6, 10

→ Scenario 2: BNG settlement

- BNG housing (privately owned)
- Most landlords: 40+ women with dependents
- Landlord households: 3-4 members
- Tenants: 20-35 years old
- Tenant households: 3 members
- 1/3 of tenants no income; 80% earns <R3500
- Structures: mostly wood, zinc/brick second
- Services: in main house
- Average rent: R650, electricity contributions
- Tenants often distant relatives/acquaintances of landlord
- Tenants have lived in neighborhoods for most of their adult lives (5-10 years)

Potential interventions

1, 2, 3, 4, 5, 6, 9, 10, 11, 12

Interventions key

- | | | | |
|---|---|--|--|
| 1 Access to services | 6 Conflict resolution mechanisms | 11 Provision of building support | 16 Backyard housing associations |
| 2 Formalised lease agreement templates | 7 Improved tenure security | 12 Relaxation of stringent building regulations | 17 Zoning schemes to allow for multiple homes |
| 3 Rental Housing Tribunal spread | 8 Prototype housing design templates | 13 Simplified planning approval process | 18 Enabling policy environment |
| 4 Rights based education | 9 Building regulations awareness raising | 14 Pre-approved development plans | 19 Funding that helps to unlock the potential of the sector |
| 5 Access to legal recourse | 10 Access to building materials | 15 Targeted capacity building | 20 Improved access to finance |

Backyard housing scenarios

→ Scenario 3: Established township B

- Bond financed housing
- Most landlords: 50+
- Landlord households: 4 members
- Tenants: 20-39
- Tenant households: 2-3 members
- 50% of tenants employed; earns R1500-15000
- Backyard structures: brick and wood
- Services: in main house
- Average rent: R1500 + electricity
- Tenants not acquainted to landlord
- Tenants have always lived in neighborhood + fairly significant number of foreign nationals

Potential interventions

1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 17

→ Scenario 4: Informal settlement (10+ years old)

- Shacks
- Most landlords are absent
- Tenants: 20-35 years old
- Tenant households: 1-2 members
- 70% of tenants are employed & earn >R3500
- Backyard structures: zinc
- Services: communal
- Average rent: R500
- Tenants know other tenants (or their networks)
- Tenants have lived in neighbourhood for 2-5 years
- Tenants keen to invest in their structures

Potential interventions

1, 2, 3, 4, 5, 6, 7, 8, 10, 11

Notes

Additional roles for other institutions

Other institutions can also play a role in improving backyard rental housing. For instance, the Construction Industry Development Board will have an influence on contractor capability and registration. Similarly, networks such as property development forums and DAG's Contractor and Developer Academy can play a key role in enabling the sector.

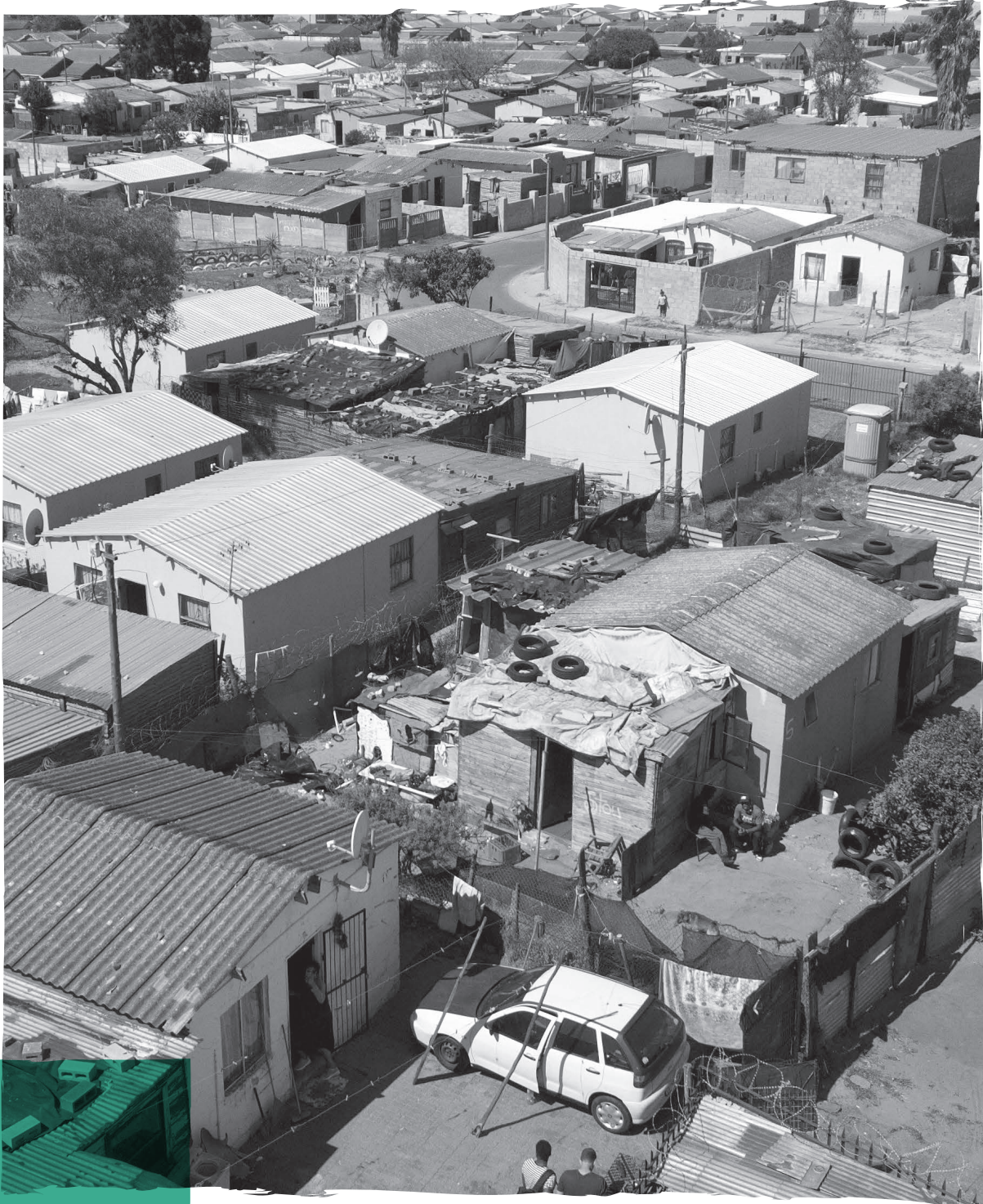
Housing Support Centres

The Housing Code calls for the establishment of Housing Support Centres that provide:

- Space for community meetings
- Training and assistance with housing related matters
- Housing consumer education
- Construction training
- Building material distribution (where required)

Housing Support Centres are meant to be run by municipalities and funded through the Upgrading of Informal Settlements Programme. The Housing Code suggests that Housing Support Centres can play an important role in the backyard housing sector. However, few have been established, and the potential of Housing Support Centres to contribute to capacity building, training, and support has yet to be fully realised.

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