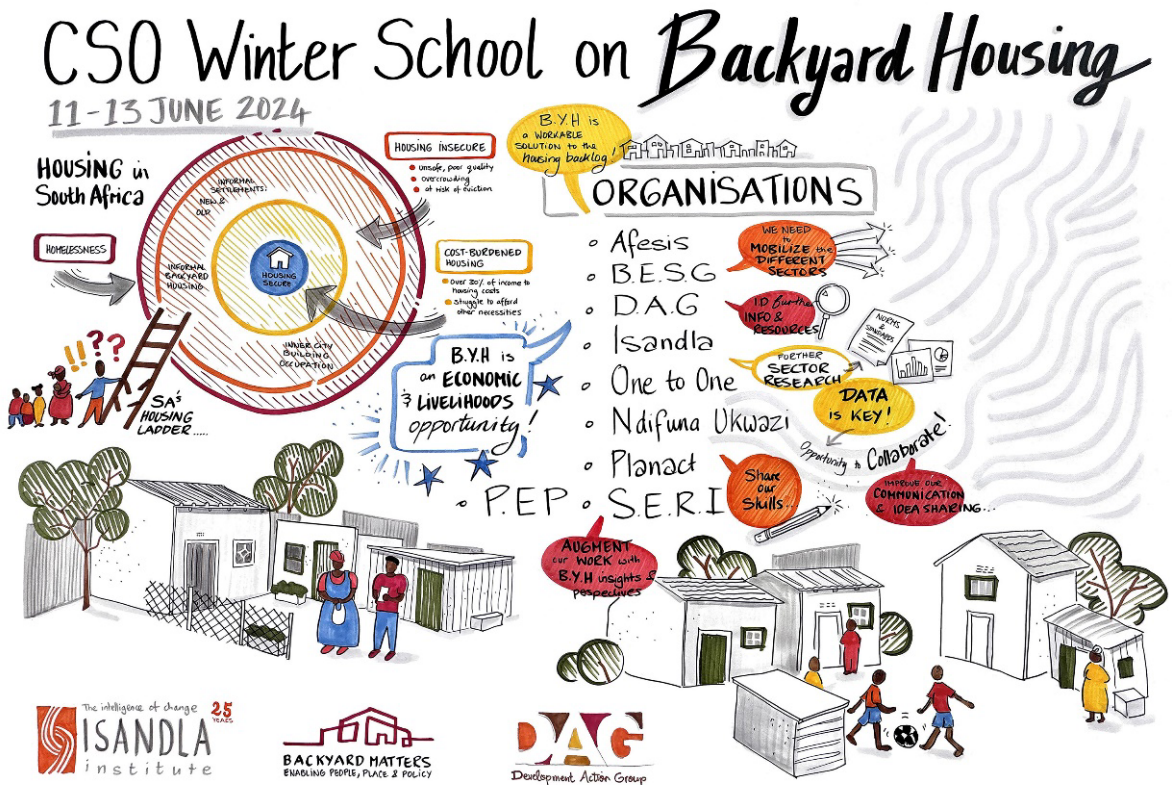


# CSO Winter School on Backyard Housing

Stellenbosch, 11-13 June 2024

## Summary report



Organised by

## About the CSO Winter School on Backyard Housing

The CSO Winter School on Backyard Housing provided a platform for civil society organisations to come together and focus on some of the crucial issues that impact the work undertaken in communities who live in conditions of informality. While the focus of the CSO Winter School was to share some of the key learnings about the backyard housing sector that have emerged as part of the 4-year partnership between the Development Action Group (DAG) and Isandla Institute in the Backyard Matters (BYM) Project,<sup>1</sup> it is clear that many of the prevalent and recurring issues impact economically and socially vulnerable communities across the board and therefore require relevant, sustainable interventions by a range of stakeholders.

In the context of a fast changing political, social and economic environment, the BYM partners deemed it important to have facilitated conversations to enable civil society partners to share information, learn from collective expertise and experience, empower community agency and voice, and positively shape the narrative around emerging debates. Over 3 days, the CSO Winter School certainly delivered in terms of these objectives. Bringing together nine CSOs from different provinces, it enabled learning, sharing and networking - both as part of the formal programme and, equally important, in the conversations between colleagues who do not always have the luxury of time and space to engage outside of core day-to-day activities.

As will be explored below in the session summaries, we also benefited from presentations from colleagues with specialised expertise. While contextualising learnings to resonate with the needs which characterise the unique environment that each organisation operates in, the CSO Winter School highlighted the importance and value of *collective* civil society action and *proactive* approaches to the changing human settlement environment. This includes recognising the severity of the human settlement and service delivery crisis that vulnerable communities continue to face as well acknowledging the emerging challenges and opportunities which are part of the just urban transition. The just urban transition (JUT) recognises the increasingly devastating impact of climate change on vulnerable communities. To tackle climate change and reduce carbon emissions, South Africa, as part of its international commitments, is changing (or transitioning) its economy from one based on coal to one using renewable energy. The positive and negative dynamics related to the JUT was thus an important lens that also enriched the engagement and debates throughout the CSO Winter School.

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<sup>1</sup> Backyard Matters is a partnership initiative between the Development Action Group (DAG) and Isandla Institute since 2019. The project recognises that backyard housing is a community-driven response to housing shortages for many who fall through the cracks of state programming and unaffordable private rentals. Backyard housing remains a neglected and sometimes invisible sector. 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 in thriving neighbourhoods. The project thus advocates for inclusive policy and programming that embraces the voice, needs and agency of backyard residents and landlords as an integral part of the municipal community. Backyard Matters is funded by Comic Relief.

## Objectives

The core objectives of the CSO Winter School were:

- To deepen knowledge of the (diverse) backyard housing sector and the important role it plays in providing affordable housing and facilitating and contributing to local economic and neighbourhood development;
- To increase understanding of the challenges faced by the sector and the potential role(s) that CSOs could fulfil in enabling/strengthening the backyard housing sector; and,
- To explore how CSOs can take the insights gained forward into their own practice and/or advocacy on housing, human settlements and access to services.

## Learning methodology

The intent of the programme was to harness different methods of learning and information-sharing. The programme was thus a mix of formal presentations, facilitated discussions in plenary, as well as group work and guided individual reflections. Most presentations were provided by the Backyard Matters team, with external inputs from GreenCape (session 4), the Western Cape Rental Housing Tribunal (session 5) and David Gardner (session 6). Participants were also requested to do some preparatory work beforehand to assess and share their knowledge and/or experience of the backyard housing sector within their municipality. To further facilitate group learning and capture key insights and discussion points, graphic harvesting was used.

## Learning outcomes

It was evident from the feedback from participants that the objectives of the CSO Winter School were certainly met and that the time spent together on the 3-day learning journey was enriching and valuable. Participants highlighted key learnings, not only about the critical challenges present in the sector, but also the opportunities which exist to craft sustainable responses and solutions to these crises. This includes leveraging local economic and neighbourhood development opportunities through different interventions, including, partnership approaches with various stakeholders to achieve incremental improvements. The importance of timely and relevant individual and collective CSO action to achieve these goals in a changing social, economic and political environment was clear. Sharing knowledge and expertise not only enriched the conversations and debates during the Winter School, but also paved the way for better collaboration between organisations in the core work that they undertake within the broader human settlements sector.

## About this report

This report summarises the substantive themes as presented and discussed during the CSO Winter School. It is not a detailed record of the presentations, discussions, group work and individual activities, nor does it describe the facilitation techniques or process followed. Rather, it distils key insights and discussion points for each session in both narrative and visual form, as captured through graphic harvesting.

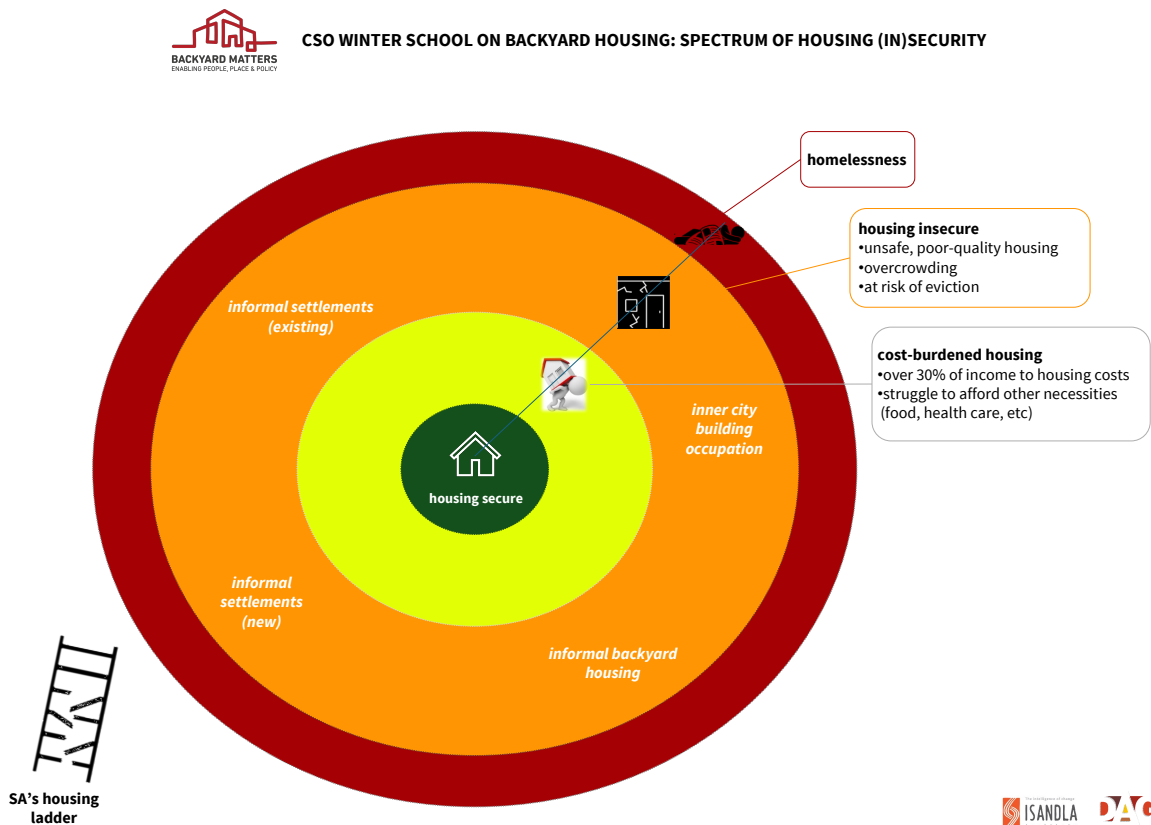
## Session 1: Welcome & Introductions

The first session sought to build a foundation for knowledge sharing and learning, recognising the different perspectives, organisational modalities and interests represented by participants. As organisations involved in the human settlements sector, many of the recurring issues they encounter are similar, yet contextual differences and areas of focus can be quite marked. Appreciating the diversity of practice and knowledge present was therefore important.

The session also introduced the spectrum of housing (in)security, noting that the changing social, fiscal and political environment has contributed to greater levels of tenure and housing insecurity for poor and low income households. This contradicts the more optimistic notion of a housing ladder, which assumes a level of upward mobility once households, particularly from previously marginalised/disadvantaged communities, are able to place a footing on the ladder.

In reality, we often see a horizontal and even regressive movement of those who already suffer some degree of housing insecurity – whether in informal settlements, occupied inner city buildings or backyard housing. Households may experience different forms of tenure insecurity in these different housing typologies, sometimes within a relatively short span of time or over a longer period of time. The economic impacts of Covid-19 and associated lockdown measures have been a key driver in this regard: for example, backyard tenants who lost their source of income and were no longer able to pay rent ended up in informal settlements, both existing and newly formed, or became homeless.

Following the introduction of the housing (in)security spectrum, participants located the work of their organisations on the spectrum, starting the conversation about similarities, overlaps, challenges and opportunities in the work that we undertake.



## Session 2: Understanding the backyard housing sector

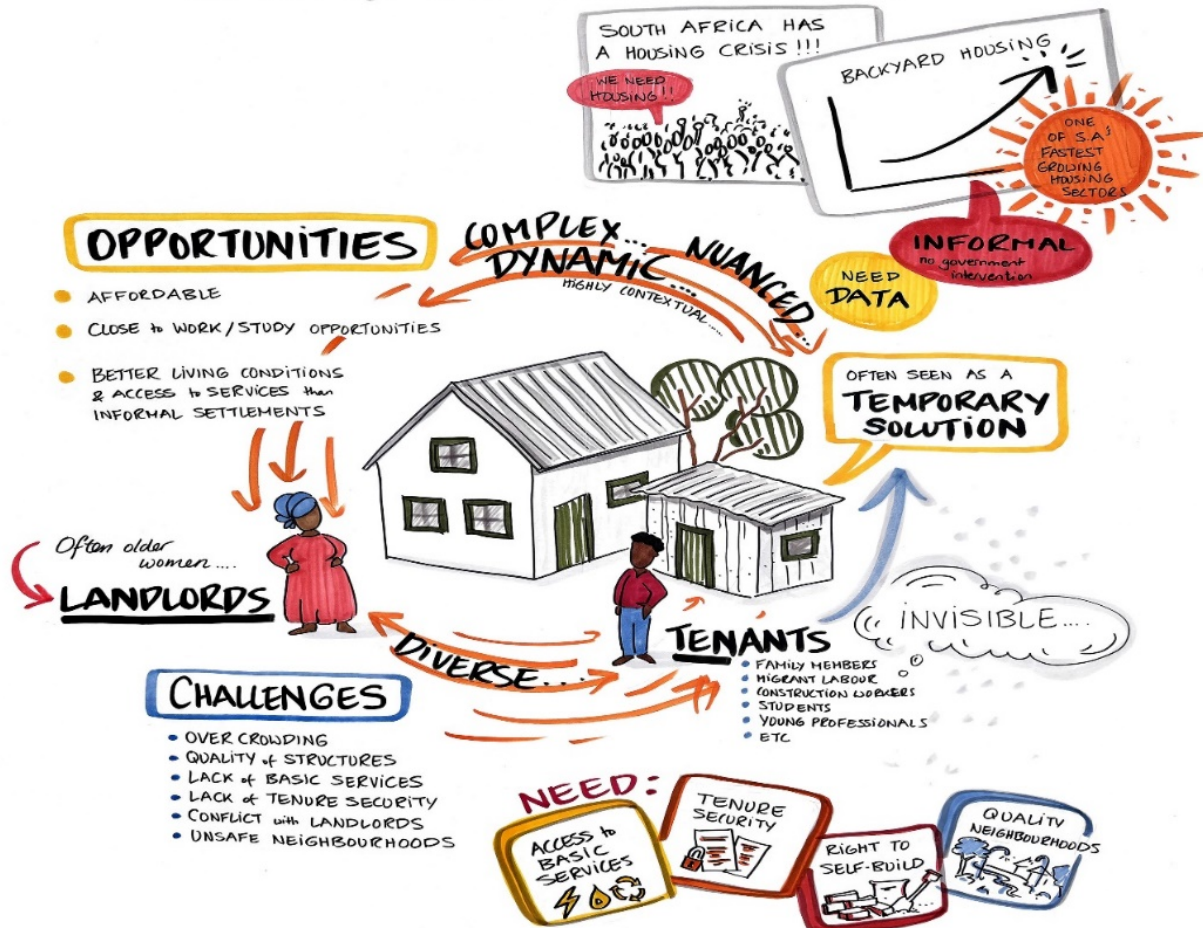
Backyard housing as a historical, self-help response to address housing need fulfils a vital gap in the housing market with evidence of longevity and consistent growth. In fact, data suggests that in urban areas it has been growing at a faster rate than informal settlements as well as other housing typologies. As emerged from the discussion in this session, the size and prevalence of backyard housing also differs from municipality to municipality.

A crucial element which this session explored is the diversity present in the backyard sector, both in terms of types of tenants and landlords, type of backyard structures, as well as the contextual market and social dynamics that underpin backyard relationships. For example, this is demonstrated by the socio-economic status/profile of tenants, which can range from employed to indigent, impacting their ability to pay for accommodation and basic services. Similarly, the profile of landlords can range from subsistence landlords, who require rental in order to survive or meet basic household needs to entrepreneurial landlords. Subsistence landlords are often themselves indigent, impacting the quality of backyard structures and limited basic service offerings which they provide. Entrepreneurial landlords may develop backyard structures incrementally, to earn supplementary income. Micro-developers, or developers of small-scale affordable rental on the other hand, want to develop multiple backyard units, often using micro-finance to fund projects with the intent of maximising profit returns. These units are often better constructed with better basic service offerings. Significantly, research suggests that a sizeable proportion of landlords are older women who use the prime asset of their home to derive much-needed income. Backyard housing is therefore an important contributor to local livelihoods and can be a key driver of local economic development, in terms of the economic value chain which exists (and can be further incentivised) around self-build construction.

Just as the ownership of backyard structures on the erf may differ, so too the basis of rental agreements. For some backyard residents, it is familial/social, with family members seeking space and/or privacy in a backyard structure and contributing to shared basic services in lieu of rental payments. For others, it is purely a private-law rental agreement with backyard tenants seeking the security of access to basic services and living closer to transport hubs and what is perceived to be better access to social amenities in townships (compared to informal settlements). Similarly, rental agreements can range from informal/verbal to validly executed lease agreements. Rental is however, characteristically, lower than private market rentals and is often inclusive of basic services like water and refuse removal. The emerging exception to this is the more formalised rental agreements which come with the structures that micro-developers offer, often attracting tenants who are willing – and able – to pay for better quality accommodation and basic services.

What is clear from the above is that there is a range of role-players and an existing ecosystem of actors that comprise and contribute to the continued and evolving functioning of the sector. This moves beyond backyard tenants and landlords to include municipalities, which must service households and neighbourhoods, to other stakeholders who play a role in financing and/or enabling the sector in a variety of ways.

# 2 UNDERSTANDING the BACKYARD HOUSING SECTOR



### **Session 3: The policy and institutional environment for backyard housing**

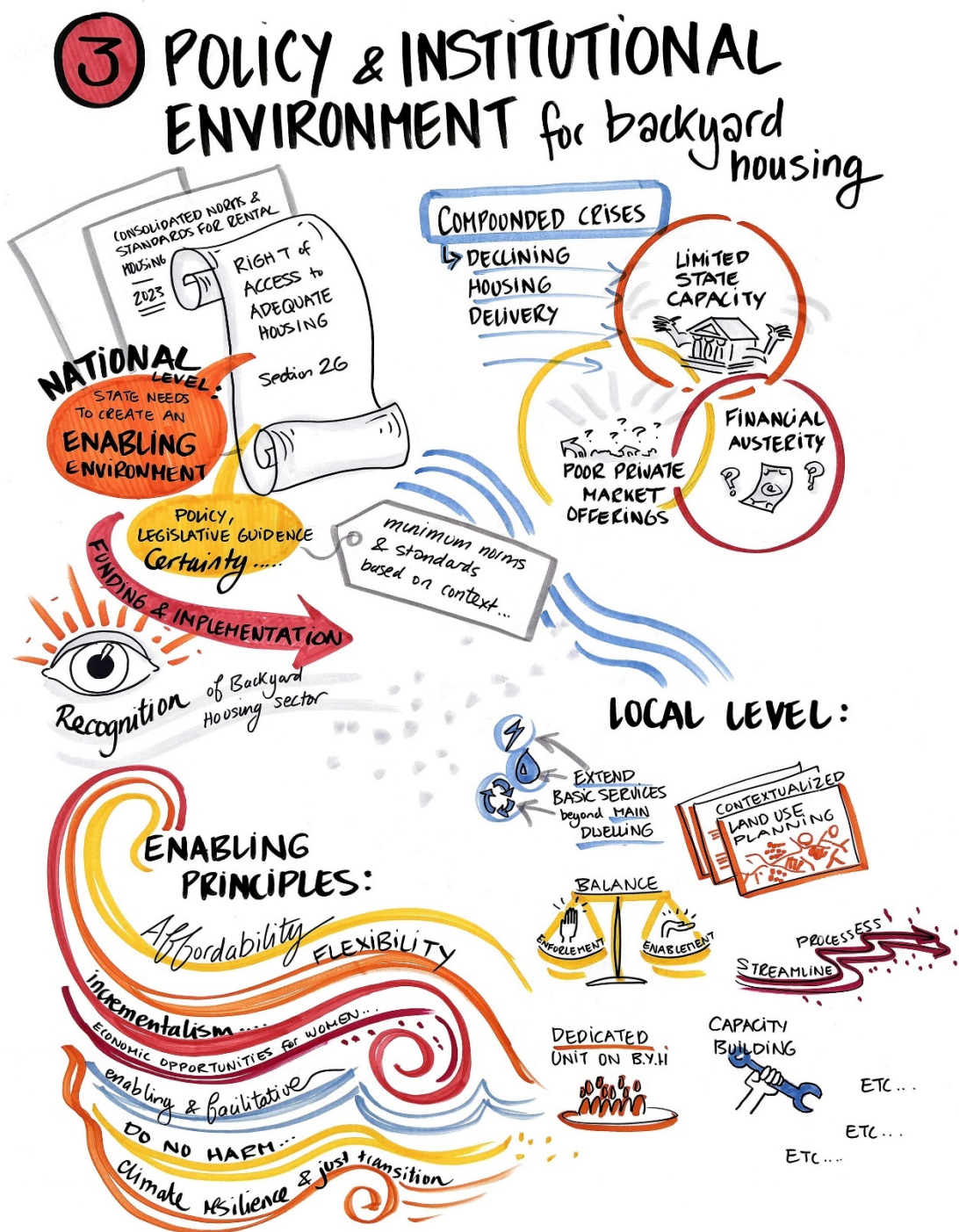
Given the unique characteristics that differentiate the backyard sector, essentially shaping how it operates, the third session sought to locate how/where backyard housing fits into the broader policy, legal, regulatory and fiscal environment that shapes human settlements. Flowing from the constitutional right of access to adequate housing, South Africa has an extensive policy, legislative and programmatic framework that recognises different housing typologies, including those associated with conditions of informality. For example, the National Housing Act 107 of 1997 and National Housing Code (2009) have institutionalised this in the form of the Upgrading of Informal Settlements Programme. This programmatic recognition attracts funding in the form of intergovernmental transfers and dedicated budgets providing for certainty across the spheres of government and creating clear imperatives for performance and accountability. The current reality is, however, that the needs of backyard residents are often not catered for within the ambit of recognised human settlement programmes. Despite the contribution of backyard housing in providing housing opportunities for a significant proportion of a vulnerable (and often indigent) population, it is not covered by a comprehensive policy that guides programmatic and budgetary interventions at the different spheres of government. This pertains to both the need for safe, adequate backyard housing and, as is discussed in session 4, access to basic services. Given their responsibility for the built environment functions, including basic services and land-use planning, municipalities have a particularly important role to play in enabling and supporting the backyard housing sector. Municipalities also have to absorb the downstream costs of failing to provide services as well as the consequences of increasing tenure insecurity in the sector which can lead to evictions.

Many municipalities acknowledge the needs of the backyard sector, with some even implementing policies and extending programmes to cater for specific needs, such as the extension of basic services. Municipalities, however, want legal certainty and guidance from their national and provincial counterparts. There are therefore different responsibilities that the different spheres need to fulfil, with national government being responsible for policy guidance and legislative certainty as well appropriate budget allocations. National government can also encourage the use of existing progressive legislation. As limited examples from practice demonstrate, provincial governments also have discretion to implement relevant and progressive policy and practice that enables the sector.

More recently, there have been positive developments that start to lay the foundation for an enabling approach to the sector. These include the expanded use of the Urban Settlement Development Grant (USDG) to fund service infrastructure for backyard residents. The Consolidated Norms and Standards for Rental Housing (2023) is also progressive, encouraging an incremental approach to improvement and adopting more flexible building standards for the sector compared to other rentals. The Norms and Standards also set out the duties of landlords and tenants. They do not, however, provide ‘catch-all’ solutions. Further work is required for institutionalisation, awareness raising amongst municipalities, support and concomitant funding to implement in practice.

It is clear then, that there are existing initiatives and tools at the disposal of every sphere of government to ensure an enabling approach to support the backyard sector and realise the housing

and local economic benefits that it can yield. Nonetheless, greater policy clarity and guidance is needed, in particular to direct municipal practice in this regard. The White Paper Review process is an opportunity to do so. As the JUT gains momentum, it is crucial that the backyard sector is included in emerging opportunities and protected from unintended consequences which may compound existing challenges. Equally important is to ensure that the voice and agency of backyard communities are fully integrated into new policy and legislative processes. Building on a set of important principles to guide such initiatives, the session emphasised the need for an enabling and facilitative normative framework as opposed to a purely regulative or punitive approach, which previously shaped some of the prevailing attitudes and approaches to the sector.



## **Session 4: Roles, responsibilities and complexities related to improved access to basic services**

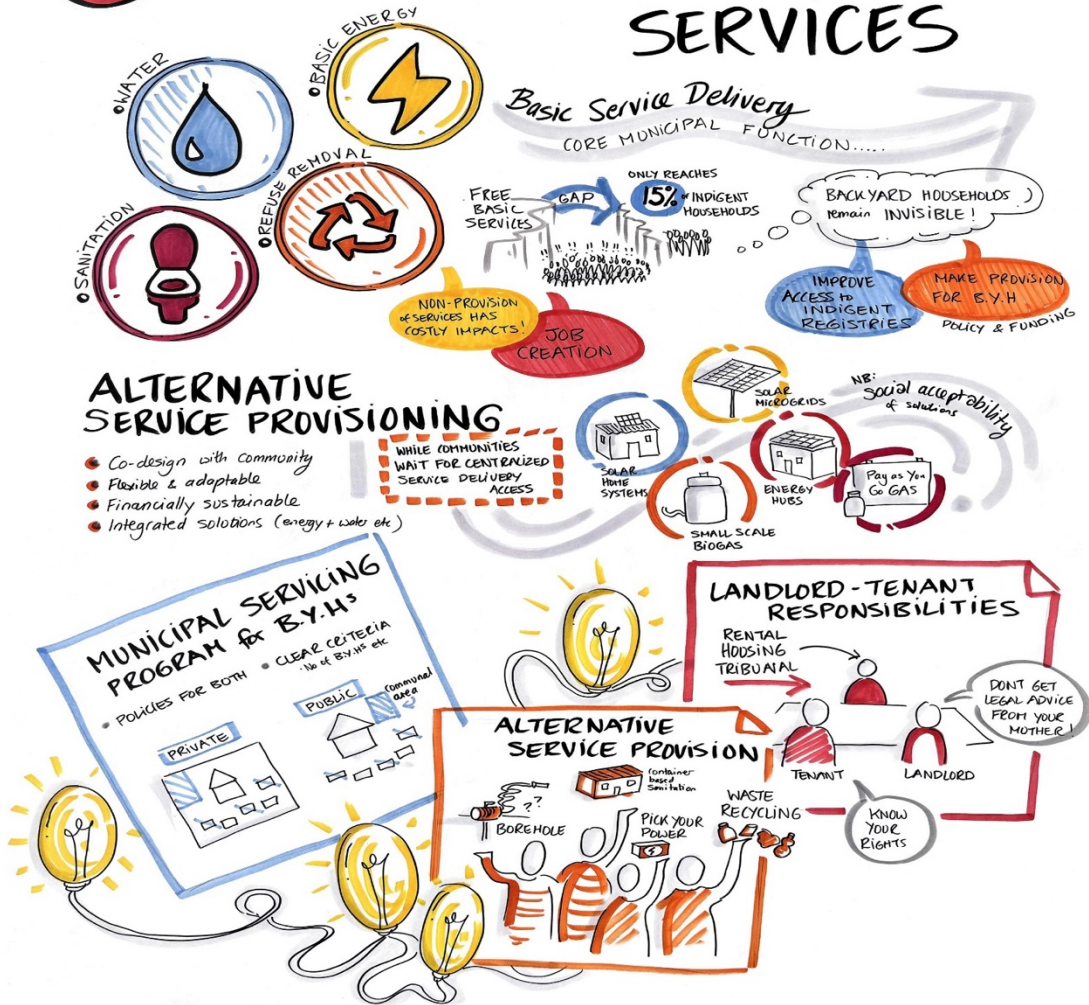
Access to basic services is an integral part of ensuring that living conditions are safe, habitable and dignified. Session 4 unpacked some of the complexities and opportunities related to accessing basic services in the backyard sector. In the backyard context, tenants often access services via the main house and enter into some form of agreement about shared usage and payment for basic services. Conflict related to consumption and therefore liability to pay for basic services is a regular source of contention between tenants and landlords and is often open to exploitation. For example, landlords may limit access to basic services as a tool to extract payment or as a punitive measure in disputes. Tenants, in turn, may choose not to – or may be unable to – pay for services consumed.

A significant finding in the backyard sector relates to the fact that often both landlords and tenants are indigent and in need of the free basic services that municipalities are mandated to provide. Free basic services are funded by the equitable share allocation which every municipality receives from the fiscus. It is calculated to ensure that municipalities (even under-resourced municipalities) are able to deliver free basic water, sanitation, electricity and refuse removal services. Research reveals, however, that less than 25 percent of indigent households budgeted for in the equitable share allocation for local government actually receive free basic services. There are several reasons for this.

Municipalities often exclusively use the main house as the focus for rolling out free basic services. Due in part to the invisibility of the sector and a lack of data on the size of, and trends in, the backyard community within neighbourhoods, backyard residents are often overlooked in the allocation of free basic services. Part of the problem is the reallocation of municipal budgeting to service municipal debt. Municipalities also need to simplify registration processes for indigent registers, making it more accessible to backyard residents. Another issue which municipalities raise as an impediment for rolling out infrastructure to extend services to backyard residents is the legal framework that, they argue, does not permit investment on private land as well as prohibitive costs. Legal opinions have clarified, however, that there is no such impediment and rather a compelling obligation to fulfil constitutional obligations to all municipal residents, including backyard residents. In response to the ‘cost’ question, while processes for rolling out infrastructure are complex and costs prohibitive, it is also important to consider and monetise the cost of remedial action required as a result of non-provision or inadequate servicing. For example, the costs (both monetary and in social terms, such as impact on health and wellbeing) of cleaning up illegal dumping far outweighs the costs of making adequate provision for those who live in informality.

In the context of infrastructural challenges and resource constraints which municipalities face, the option of alternate service delivery models presents opportunities that should be explored. A partnership approach that combines the principles of accessibility, innovation and climate resilience is critical. Significantly, such approaches are co-designed with communities and tailored to respond to contextual need. They may rely on partnerships with civil society organisations, municipalities and/or private stakeholders to provide innovative service delivery solutions. Examples from practice include solar home systems, micro-grids and solar powered Wi-Fi enabled streetlights, amongst others.

# 4 ACCESS to BASIC SERVICES



## Session 5: Advancing tenure security in the backyard housing sector

Often when the concept of tenure insecurity is broached in the context of rental housing, tenure insecurity is more often than not associated with tenants. In the context of the backyard housing sector, however, this is not always the case as backlogs in title deeds are still prevalent. This session explored the nature of tenure (in)security and how it impacts landlords and tenants differently. Even municipalities may be impacted by tenure insecurity in this sector, as they may have to absorb/accommodate the consequences of evictions when they occur.

Session 5 examined the different roles, rights and duties of tenants and landlords. As tenure insecurity is one of the greatest sources of conflict between tenants and landlords, it is clear that different types of support and intervention from different role players is required, ranging from education to mediated conflict resolution. The role of rights education through promoting the use of written lease agreements, as well as the prevention and management of conflict, by making both tenants and landlords aware of their rights, is crucial.

A vital institution established to mediate conflict between tenants and landlords is that of the Rental Housing Tribunal (RHT), which are independent bodies established at provincial level. The objectives of the RHT is to provide a mechanism for resolving conflict in the rental housing market, protecting both the rights of the tenant and landlord without the need for expensive court proceedings. Moreover, the work of the tribunals is to foster stable relationships between tenants and landlord by providing clarity on the obligations of tenants and landlords to prevent unlawful practices. The RHT acknowledges both written and verbal lease agreements, which are common in the backyard sector. However, a written lease is encouraged to promote certainty. Problems emanating from the backyard housing sector, such as eviction and unauthorised changes to lease agreements and rentals, are common. Because there is a lack of awareness of the role that the RHT can play, accessibility for the backyard housing sector needs to be enhanced through awareness campaigns that educate both tenants and landlords. The RHT can collaborate with CBOs and advocacy groups that focus on the backyard housing sector in this respect.

The discussion that followed after the presentations highlighted a diversity of issues such as:

- The acceptability of tenants in communities, as community leadership sometimes view backyard tenants as ‘temporary’ residents and even ‘outsiders’;
- Processes put in place to ensure protection in situations whereby tenants lose income and end up in the street because of being unable to pay rent or get evicted for other, often arbitrary, reasons;
- The period in which tenants must lodge a complaint;
- The issue of sub-letting by tenants without permission from the landlord;
- Holding landlords accountable for maintenance, and the role of the RHT in that process.

This all points to the complexity of the sector and the need for education, amongst a diversity of interventions.

# 5 ADVANCING TENURE SECURITY in the BACKYARD HOUSING SECTOR



## Session 6: Improving the quality of backyard housing (through self-build)

Backyard housing is important in the context of the township housing market and possibly the largest deliverer of affordable housing in the country. As indicated in earlier sessions, there are various typologies of backyard housing structures and homeowners/developers, with the latter ranging from subsistence homeowners to micro-developers. Positive elements of the sector include its grassroots origin, the significant private investment on an initial base of public investment (with beneficiaries of public housing leveraging the asset to provide housing and create income-generating opportunities) and its contribution to urban densification imperatives. Negative aspects, however, include the high level of building and land use non-compliance, additional pressures on bulk infrastructure capacity and the potential burden on community services.

This session explored the land use management and regulatory environment, building norms and standards (as per the Rental Norms and Standards pertaining to backyard housing) and the nature of non-compliance in the backyard housing sector. It further unpacked what an enabling approach and support framework could entail. The proposed support framework focussed on the following seven elements/enabling interventions and the rationale underlying them:

- Land and property rights as the foundation of the sector;
- Infrastructure and service provision;
- Building the framework for densification;
- Planning and land use processes guiding future city form;
- Building quality guidelines to ensure a safe and healthy environment;
- Housing and human settlements investing in the ‘future city’; and,
- Urban management creating a better daily life experience.

This sector needs new responses from municipalities, provinces and national government even with associated risks and challenges as well as opportunities. An appropriate response will lead to rapid private sector growth within limited resources. However, this requires a facilitative approach from all spheres of government to guide the actions of landowners, tenants and developers.

The session further explored the possible role of a municipal-led Housing Support Centre (HSC) model, inspired by local EPHP HSCs and other Global South precedents, which can play a vital role in enabling and supporting improved incremental self-build housing construction. The HSC model builds on existing municipal capacity, structures and funding sources; involves partnering with external stakeholders; and can be augmented and supported over time, with an increased menu of support services, and greater involvement of community members. It provides education and technical support for incremental housing consolidation. However, technical support should be complemented with state financial support to those wishing to build, but who cannot afford to.

HSCs can cater to 5 categories of housing support needs, namely tenure security, access to basic services, top structure, neighbourhood improvement and sector support. HSCs could provide different support functions, such as: consumer education; assistance with applications; an advice office function; maintaining a contractor/artisan database; issue/case management (including “unblocking”); capacity building and training; community engagement; as well as the associated administrative functions. HSCs could take the form of a permanent office or offer periodic outreach (e.g. bimonthly or monthly). Mobile/virtual services could possibly augment these modalities.

The session also highlighted the potential role of alternative building technologies in response to climate change and the need to reduce the carbon footprint of construction. The just urban transition (JUT) framework highlights technological opportunities that can be embedded in informal settlement upgrading, and self-build more broadly. This can include making greater use of alternative building technologies (ABTs), which are non-conventional building materials or methods, i.e. not covered by national building regulations, and are largely at an experimental or pilot stage. ABTs can play a potential role in self-build by allowing for more sustainable and climate risk responsive building materials and methods, while also providing opportunities for strengthening township construction value chains through localisation (with potential benefits related to materials production, reduced transport costs, local economic development and job creation/sustainable livelihoods) and a more circular economy.

## 6 IMPROVING the QUALITY of BACKYARD HOUSING through improved SELF-BUILD



## Session 7: Making neighbourhoods work for all residents

Progressive human settlement policy recognises that housing is but one aspect of dignified, safe, resilient and vibrant neighbourhoods and municipalities. Session seven focused on the many fault-lines that commonly characterise under-serviced neighbourhoods, where backyard housing is widespread. This is partly as a result of the invisibility of backyard tenants and their undercount in public service provisioning, consequently affecting quantity and quality of service. This, in turn, affects the quality and (perceived) safety of the neighbourhood.

Primary research has found that backyard communities (both tenants and landlords) have identified neighbourhood safety as a critical social concern, taking precedence over access to housing. Both the experience and the fear of violence and crime affect people's quality of life, their dignity and their ability to move freely in their neighbourhood.

An area-based violence prevention approach to address both the physical infrastructural and socio-economic enablers of crime and violence is therefore crucial. This involves a spatially targeted approach that is holistic, multi-sectoral, community-driven and partnership-based.

The session further touched on the growing reality of criminal capture of local economies and how this undermines the prospect of equitable development and investment in affordable housing. Local 'extortion economies' take different shapes and forms, but are often associated with violence and crime targeted at (potential) competitors and even government officials and contractors in an effort to prevent them from entering these neighbourhoods for repairs and maintenance. If there is indeed more investment in both public and private infrastructure in neighbourhoods where backyard housing is prevalent, and if 'localisation of labour' is advanced as a key local economic development strategy, it will be critical to ensure protective measures are put in place to limit the risk of criminal capture and extortionism.

Lastly, the session identified challenges and opportunities in working with marginalised (and individualised) social groups, such as backyard tenants, to advance their rights and voice in neighbourhood development processes. In some neighbourhoods, backyard tenants are indeed temporary residents, but in other areas their presence is more permanent. Because backyard tenants are not organised, it is difficult to reach them in rights education and social mobilisation efforts. Moreover, community leadership structures, including community structures agitating about housing rights, are usually led by property owners, who are not disinterested parties where tenant rights are concerned. Instead, they can act as gatekeepers to knowledge and to access (i.e. to backyard tenants).

Nonetheless, collective community advocacy is a powerful tool in bringing about change in local living conditions that can benefit all residents, whether tenants or landlords. Through capacity building workshops, horizontal learning platforms and making a concerted effort to move beyond the conventional power brokers, a more inclusive sense of community can be fostered. By strengthening community organisation and identifying common issues, communities are able to take ownership of local struggles.

# 7 MAKING NEIGHBOURHOODS WORK for ALL

Safe & healthy environments that promote social & economic wellbeing

