Backyarding:

Affordability, dignified shelter and Covid-19

2020

BACKYARD MATTERS
ENABLING PEOPLE, PLACE & POLICY

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Acknowledgements

Backyard Matters is a partnership project initiative between Development Action Group (DAG), Isandla Institute and Violence Prevention through Urban Upgrading (VPUU). 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.

Cover image: Isandla Institute/ Masixole Feni: Young children cooling in the shade in Dunoon

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Introduction

Housing shortages and inadequate quality housing in urban areas are acknowledged as a crisis in South Africa. In response, informality has been used as a strategy of the urban poor to access housing – and, by extension, to access urban opportunities. In the past, the state and civic organisations have predominantly focused on increasing home ownership and considering ways of eradicating informality. Over the years, this focus has begun to shift; there is increased recognition of the role of rental housing in expanding housing options and in meeting particular housing needs not met by ownership or rental options in the private sector, or by housing subsidies. Backyard accommodation is one such housing solution.

While backyard accommodation provides a housing solution, it may not always result in dignified housing and secure tenure.

In the South African context, the role of informal, low-cost rentals in the housing sector is acknowledged as being both widespread and important. However, its informal nature makes it difficult to know the full extent of backyard rentals. The informal nature of backyarding, coupled with gaps in available data, and the prevalence of backyarding on privately owned land present particular difficulties for a public sector response. Yet, appropriate responses from both state and private actors are necessary, because of both the potential and challenges associated with backyarding. While backyard accommodation provides a housing solution, it may not always result in dignified housing and secure tenure. And while backyarding can contribute to integrated human settlements and more compact cities, there are concerns about added pressure on already strained bulk infrastructure and the potential for overcrowding. These concerns are amplified by the onset of the Covid-19 pandemic which has increased housing vulnerability and requires urgent efforts towards realising the right to adequate housing.

This paper elaborates on the important role the backyard housing sector plays in providing (often inadequate) housing solutions. It seeks to provide some insight into the dynamics and contextual nuances that inform local backyard realities and backyard rental markets and the lack of clear policy guidance on how to support and regulate this housing sub-sector. The paper further argues that the Covid-19 pandemic has made existing housing vulnerabilities all the more pertinent, not least because of its anticipated long-lasting socio-economic impacts, and that this creates an even greater sense of urgency to consider programmatic approaches to the backyard rental sector. Drawing on literature and lessons learned from previous policies, programmes and interventions, as well as a series of engagements[1] and preliminary findings from the Backyard Matters Project survey[2], the paper concludes with a set of recommendations on how to strengthen the backyard accommodation sector. Recommendations put forward are primarily directed at municipal officials, policy makers and urban practitioners and seek to increase access to affordable, dignified accommodation and strengthen income-generating opportunities.

[1] As part of a consultative process for the project Backyard Matters, Isandla Insitute hosted strategic conversations with housing and backyarding sector experts, as well as two Community of Practice learning events. These engagements have also fed into the production of two practice briefs.

[2] Backyard Matters engaged in a process of data collection and analysis in the project's first year [October 2019 - September 2020] through sample surveys and focus group discussions in eight selected neighbourhoods across the Cape Town metropolitan area. The eight identified neighbourhoods include Lost City and Freedom Park in Tafelsig, Maitland Garden Village, Eerste River, Lotus Park, Ilitha Park, Kensington, and Manenberg. The data collected has been compiled into a series of neighbourhood profiles that will be available in December 2020.

Backyard accommodation: A vital yet neglected housing solution

South Africa's apartheid legacy is a critical factor in understanding the current housing context.

Backyard accommodation has been instrumental in providing affordable, low-cost housing.

The Apartheid state's policies, characterised by forced segregation and uneven urban development, systematically excluded Black, Coloured and Indian people from the city and limited their access to economic and housing opportunities in urban areas. In response to this history of segregation, the South African Constitution is one of the few in the world that make provision for the right to adequate housing. Democratic South Africa's housing policy emerges from a pressing need to address the injustices of the previous administration by providing housing as a fundamental human right and a form of social welfare. Efforts to provide housing as social welfare was predominantly the burden of the state, almost absolving the private sector of responsibility (Turok, 2020). To date, the continuous increase in demand for housing, especially low-cost housing, far exceeds the state's ability to provide. Backyard accommodation has been instrumental in providing affordable, low-cost housing for particular demographic groups and, as Text Box 1 shows, continues to grow.

Despite increasing recognition of the benefits of the sector, this has not translated into national policy on backyarding. *The White Paper: A New Housing Policy and Strategy for South Africa (1994)* makes reference to the backyard rental segment, but does not direct policy and legislation for the sector. Yet, there are key aspects of the White Paper that can be applied to the backyard sector (Lategan, 2013):

- serving all segments of the housing market;
- enhancing people's initiatives to improve their housing circumstances;
- promoting access to socio-economic opportunities and basic services;
- promoting freedom of housing choice;
- removing past discriminatory mechanisms.

Basic facts and figures about backyarding in South Africa

- Backyard dwellings exist in every city.
- In Gauteng, backyard structures increased by 205% between 2001 and 2015. Formal housing saw a 38% growth rate in this period.
- Most backyard dwellings are found in areas close to employment opportunities.
- Backyard tenants are mostly single people, or young couples
- Most backyard landlords are older women.
- Affordability is a big factor in the selection of backyarding as a housing option. Tenants tend to have limited earnings of less than R3500.
- Backyard structures are not necessarily 'makeshift' structures: The 2018 General Household Survey shows that although 58% of backyard structures were informally constructed, 42% of backyard dwellings were formally constructed.

Sources: Di Lollo (2020), Hamann et al (2018), SALGA (2014), Stats SA (2012), Stats SA (2019)

Text Box 1

Similarly, *Breaking New Ground* (BNG, 2004) references the importance of the sector in providing housing solutions, but also does not provide further policy guidance. "The only direct reference to the backyard sector cited in BNG denotes the fact that more information on the 'scale, conditions, rental charges and facilities which are provided within this sector and the linkages between this sector and broader residential property market' is required" (Lategan, 2013).

As a result, current regulations for backyard housing are not fit for purpose (SALGA, 2014). Many stem from the historical outdated approach of trying to eradicate informality or follow approaches that fail to take into account differential contexts and circumstances (Gardner & Rubin, 2016). Key factors such as location, settlement history, local economy, social context and structure typology and socio-economic contexts of backyarding present notable differences that have made generalisations difficult. These contextual differences have in part contributed to the difficulty of getting accurate data and adequately responding to the subsector. As a result, approaches by municipalities have tended strongly towards eradication, and efforts towards upgrading had the unintended consequence of gentrification (see Text Box 2).

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The lack of policy guidance means that an opportunity to build on what works whilst addressing the challenging features of the informal housing sector is missed. Fortunately, we are beginning to witness a positive shift in responses to backyarding.[3] The Western Cape's Human Settlement Framework (2019: 34) commits to 'improving the conditions of backyards through support and regulation'. More recently, in September 2020, the City of Cape Town's Mayoral Committee approved a set of recommendations aimed at enabling the development of small-scale rental opportunities in Khayelitsha (see Text Box 3). This gestures towards recognition of and support for backyard rental opportunities. Given the lack of policy guidance, it is useful to give brief consideration to core defining elements of backyarding in South Africa.

Historical municipal responses to backyarding

1. Laissez-faire (Left to be): No intervention or interference. Market forces determine the nature and prevalence of backyarding
2. Discourse of illegality: All unapproved structures are disallowed.
3. Building control: Encouragement of backyard structures that are approved and conventionally constructed.
4. Improvement of services for backyard structures on municipal stock: Recognising the prevalence and importance of backyarding, resources are geared towards upgrading infrastructure and extending infrastructure connections to backyarders.
5. Rezoning tools: Land management systems in Cape Town and Johannesburg provide for a second dwelling unity. This includes the relaxation of building norms and standards, increased densities and relaxed building lines. This approach is not widely used
6. Direct Support: In the case of the Gauteng Pilot Backyarder's Project (2008), this resulted in gentrification and the de-densification of backyard structures.
7. Inclusion in greenfields development: Including backyarding units for rental in the primary design of new developments.

Source: SALGA (2014)

Text Box 2

[3] *Over the years, a number of provincial and municipal initiatives aimed at improving backyard accommodation or supporting the backyard rental sector have emerged, such as the Gauteng Provincial Backyard Rental Policy of 2008, the Gauteng Backyard Rental Pilot Project (initiated in 2009), initiatives by the City of Johannesburg in Cosmo City and the Alexandra Renewal Project, as well as the City of Cape Town's Backyard Support Programme. For a variety of reasons, these initiatives have not been sustained. For more information, see SALGA (2014), Rubin and Gardner (2013) and Isandla Institute (2020).*

Defining backyarding: Complexity, contexts and variations

Backyard accommodation has a long and significant history in responding to the need for low-cost accommodation.

Having initially begun as a means of social good by providing space to erect a shack in the backyard or providing accommodation to new migrants to urban areas, backyard accommodation has since evolved to housing provision that affords a means of subsistence for poor households and revenue for entrepreneur landlords and small-scale developers (Watson, 1994).

Although backyarding encompasses different typologies ranging from granny flats in middle class suburbs to informal structures in low-income areas, this paper focuses on small-scale second dwellings or residential units occurring on erven in low-income areas.

An important feature of the sector is that it provides flexibility, both in the duration of stay as well as, to a certain extent, in the payment of rent.

Following the core defining elements of backyarding presented by SALGA (2014), backyard accommodation is defined here as:

- Predominantly used for residential purposes;
- Occurring as a small-scale activity with only a few units per yard;
- Existing on state-owned or privately-owned land;
- Managed and procured by private individuals;
- Occupied by separate households or extended family;
- Governed by private agreements, whether formalised in writing or by verbal contract.

An important feature of the sector is that it provides flexibility, both in the duration of stay as well as, to a certain extent, in the payment of rent. Housing arrangements offered in the formal housing sector, such as formal lease agreements and ownership options, do not offer the flexibility needed by some population groups, such as seasonal workers or students. The flexibility of rent is an added advantage, especially for people with fluctuating incomes and those engaged in seasonal and/or informal work. For others, like individuals or households that form part of the 'gap market' and female-headed households, formal housing arrangements and housing subsidies are inaccessible (SALGA, 2014).

A key advantage of backyard accommodation is that generally speaking, backyard dwellings exist in relatively well-located and better serviced areas, and are closer to economic opportunities than informal settlements. Compared to informal settlements, backyard accommodation represents improved quality housing, adding to the potential for an improved quality of life (Gardner & Rubin, 2016).

The backyarding sector is not monolithic; it consists of both a market component as well as residential arrangements governed by familial and social relationships. In fact, there is a highly social dynamic to the market governing access to and advertising of rental opportunities. Importantly, social and kinship networks also determine who resides in backyard dwellings, with some contexts having primarily family or extended family occupying backyard dwellings.

Backyard housing is dynamic – responding to needs and also adapting to particular contexts. This sector is developed through personal investments made by savings and investing resources incrementally to establish backyard dwellings and, for some small-scale developers, backyard flats. This aspect of landlord investment illustrates various landlord typologies that are useful in understanding backyarding as part of the informal rental

subsector. While the backyard housing sector is both dynamic and contextual, a distinction can be made between three types of landlords (Kumar, 2011; Scheba & Turok, 2020):

- *Subsistence landlords* are not profit-driven, but rather rent out accommodation to sustain or supplement their livelihoods. Some lease out land for tenants to erect their own backyard shacks, while others erect formal or informal structures to rent out. Backyard shacks are the most common and low-cost form of backyard rental accommodation. Often, these are self-erected. Cost for renting a site for the shack varies depending on location and services. Because subsistence landlords cannot afford additional infrastructure, access to basic services, ablutions and electricity are shared, typically accessible in the main house. Literature suggests that the majority of backyard accommodation is supplied by subsistence landlords.

- *Homeowner landlords* pursue profits by building standalone rooms or micro flats containing between two to six rooms. These backyard structures offer better living conditions than backyard shacks as they are erected using more durable building materials, and provide improved access to services and facilities. The standalone rooms typically have shared bathing facilities in the backyard, and in some cases have an en-suite shower and toilet. These units are usually built incrementally, and rooms are let out before being completely finished. Subsistence and homeowner landlords typically dwell within the main yard of the premises. As such, landlord-tenant relationships are crucial as they tend to influence access to services, feelings of safety and also social compacts in the yard.

- *Entrepreneurial landlords* pursue a more business-like approach to the provision of low-cost rental units by building boarding houses, multiple rental units, as well as some self-contained units. These units provide much better access to services and electricity, and are typically entered into through formal contracts.

The backyarding sector is not monolithic; it consists of both a market component as well as residential arrangements governed by familial and social relationships.

The data from the Backyard Matters Project survey points to a fourth type of backyard landlord, namely:

- *Absent / abroad landlords* who can be defined as those renting out the premises and live at a more distant location. In such cases, there is usually the presence of a 'middle-person' who negotiates some of the day-to-day aspects of the rental agreement, though direct landlord-tenant relationships may still be present.

Although the literature doesn't explore types of tenancy as comprehensilvely as landlord types, the landlord typologies above as well as indications from the Backyard Matters Project data begin to suggest different types of tenants, which include:

- *Backyard owners:*
  Tenant households who own their structures, renting out space in the yard from landlords;

- *Backyard tenants:*
  tenant households renting out both the backyard structure as well as space in the yard;

- *Backyard residents:*
  Households living in a backyard structure with an alternative form of tenure than is captured by market dynamics. They could be relatives, or persons residing in the yard on a charitable basis

- *Main house tenants:*
  Tenants renting a room in the main house directly from the landlord

Informal rental agreements also present a challenge when considered in light of reported vulnerability to eviction and/or limits on access to services.

Recognising the important contribution and potential of backyard rentals in meeting the need for low-cost accommodation as well as providing improved access to services (compared to informal settlements), it is important not to ignore some of the health, safety and economic concerns presented by the sector. These concerns are related to the quality of the structures, non-adherence to municipal by-laws or building standards (because of complexity of process as well as high cost), and pressure on bulk infrastructure in neighbourhoods due to increased population densities and overcrowding (Govender et al, 2011).

Informal rental agreements also present a challenge when considered in light of reported vulnerability to eviction and/or limits on access to services (Lemanski, 2009). As the next section will show, Covid-19 has brought these issues into sharp focus, adding to the need for policy guidance and/or (in)direct state and private sector support.

Isandla Institute/Eric Miller: Inclusionary housing solutions in Mfuleni

The implications of Covid-19 for the backyard housing sector

The Covid-19 pandemic is affecting all aspects of urban life, with cities being the epicentre of the pandemic globally. For African cities in particular, the consequences of the pandemic have been immense. The context of urbanisation exacerbates the risk of spread and contraction of the virus due to urban sprawl, widespread informal settlements, as well as deficits in the quality of infrastructure and services.

Constrained health systems, limited resources and mismanagement of funds add to the trouble. Sustainable development has been heavily affected, urban economies are negatively impacted upon and many livelihoods are threatened (UN Habitat, 2020).

In South Africa, efforts from government and CSOs have been geared towards informal settlements because of their specific context of vulnerability to both the virus and its socio-economic impacts. The lack of adequate housing compounded by lack of access to basic services and high densities greatly increase people's vulnerability to and risk of infection, particularly as social distancing is almost impossible to achieve in such contexts (Nyashanu, 2020). Significant resources have been directed towards the provision and maintenance of interim basic services in informal settlements, as well as to the provision of temporary shelter for highly vulnerable populations, such as the elderly and people with disabilities (Staunton et al, 2020).

Land occupations are directly linked to the impact of the pandemic and the inability of tenants to afford rent.

Interventions have also been implemented to protect housing rights and tenure security amid the global pandemic. In South Africa, a key measure was the moratorium prohibiting evictions of homeowners, tenants and informal settlement residents during the National State of Disaster. Some banks and financial institutions have also offered payment breaks to landlords and home owners. These protections are unfortunately less effective in situations where rental agreements are informal, such as backyard rentals (Kiewit, 2020).

While it has been difficult to track adherence to the moratorium on evictions in the informal rental market, evidence suggests that evictions have indeed been occurring and evicted residents have resorted to land occupation due to limited options. Reports suggest that these land occupations are directly linked to the impact of the pandemic and the inability of tenants to afford rent (City Monitor, 2020; Mafolo, 2020). In fact, some of these new informal settlements have been named 'Covid-19' and 'Covid Village' to reflect this. News reports have also suggested that former backyard residents make up a large number of the population in these new settlements (Mafolo, 2020).

It is expected that, even if the spread of the virus can be curtailed (or, in the most positive scenario, if a vaccine is made widely available to eradicate the virus), the impact of the pandemic will form part of our reality for years to come (Ozili & Arun, 2020). Recognising that "housing is both prevention and protection", the backyard housing sector can potentially play a significant role in mitigating health risks and socio-economic impacts of the pandemic (UN Habitat, 2020). But apart from the shortcomings identified previously, the sector also shows particular vulnerabilities brought on by Covid-19[4]. These include the following:

[4] On 19 June 2020, a strategic conversation with experts on low-cost rental accommodation was hosted virtually by Isandla institute as part of Backyard Matters: Enabling People, Place and Policy. The aim of the conversation was to reflect on the current and potential impact of Covid-19 on the backyard rental sector and its potential implications on the Backyard Matters project. The vulnerabilities of the sector as well as the proposed interventions stem from reflections from this session as well as indications from literature.

Even if the spread of the virus can be curtailed the impact of the pandemic will form part of our reality for years to come.

Overcrowding, inadequate services and poor shelter conditions hamper behavioural responses to reduce vulnerability and risk to Covid-19

Behavioural change is one of the fundamental aspects to minimising the risk of contracting and spreading the virus, which in turn would lead to better outcomes for health and social and economic welfare. The quality of housing and service provision are key enablers of the required forms of behaviour modification. Confined space and overcrowding hinders adherence to social distancing requirements. Limited access to water and sanitation as well as poor ventilation also affect one's ability to adhere to guidelines for preventing the spread of Covid-19. While access to basic services in backyards tends to be better compared to what is typically available in informal settlements, these are at times shared in the yard or governed by landlord-tenant relationships. The reality of overcrowding, the sharing of basic services and ablutions, as well as the need to negotiate services is likely to be non-conducive to behavioural change (Elliot & Leon, 2020).

Increased demand for reliable and affordable basic service provision and dignified shelter

At the start of the pandemic in South Africa, state efforts to increase the provision of water and sanitation as a means to reduce the spread of the virus were largely geared towards informal settlements (Parliamentary Monitoring Group, 2020). Those living in backyard accommodation did not benefit from interventions to the same extent. With more people at home during the day during national lockdown, increasing demand on basic services (for the purpose of personal hygiene, for cleaning and sanitising shared ablutions and food preparation areas) means that the cost of basic services will most likely increase, raising questions about tenants' ability to pay.

Shelter can be a first line of defence against shocks and stresses. Apart from basic services, Covid-19 has highlighted the importance of structure, space and ventilation as key contributing factors to protection against the virus.

Loss of jobs and income as a result of Covid-19 affect tenants' ability to pay rent, which in turn negatively impacts on the livelihoods of landlords and their ability to invest in rental accommodation (unless they are able to secure other tenants)

The poor have been heaviest hit by the economic impact of the pandemic; which has been particularly devastating for the informal economy and for those in low-skilled positions (Arndt & Robinson, 2020). This has put additional pressure on the survival needs for low-income households for the medium to long term. Literature shows that, in some cases, both backyard landlords and residents can be classified as low-income households (Gardner & Rubin, 2016). For backyard tenants, reduced household income may imply the inability to continue to afford rent and the increased precarity of already vulnerable groups, such as undocumented immigrants and woman-headed households. We could expect to see an increase in people downgrading their accommodation which could possibly result in an increase in backyarding and a churn in the demographics of backyard landlords and tenants.

For landlords who own their properties, there may even be the need to leverage housing as an asset, which too has implications for residential patterns of both landlords and tenants. Economic difficulty also means that landlords are less likely to have the resources to invest in quality accommodation, especially when the cost of building material is expected to increase as well. As it stands, subsistence landlords make minimal investments in top structure upgrades. Yet, in the context of Covid-19 the quality of top structures becomes all the more important.

Inability to pay puts tenants at risk of eviction and homelessness, with land occupation a likely survival strategy

The tension between backyard tenants' inability to pay rent and landlords' reliance on rental incomes for their livelihoods creates an impossible dynamic. Judging from news reports, evictions have been the most obvious consequence of Covid-19 in the backyarding sector (Eviction Lawyers SA, 2020; Gontsana, 2020; Mdzanga & Mntuna). Clearly, adherence to, and enforcement of, the national moratorium on evictions is particularly challenging in a context of residential informality. This is potentially compounded by insufficient knowledge on protections for tenants, and a deficit in economic and advisory support for landlords.

The prevalence of land occupations across the country already begins to indicate some of the effects of Covid-19 in the broader developmental context. In Cape Town alone, there have been over 260 alleged incidents of land occupations between April and July 2020. Increased land invasions have been attributed to the shifting economic context and unaffordability (Western Cape, 2020).

Shifts in the supply and demand of backyard rental accommodation

As people are unable to make rent, it is possible to see some of the following trends in supply and demand:

- More vacant units in the market as tenants seek alternative accommodation options, e.g. move to informal settlements;
- Increased demand for backyard units as people downgrade their accommodation;
- Increased supply of units as more people pursue low-cost accommodation provision as a form of entrepreneurship;
- Reduced demand due to reduced household incomes;
- Displacement of tenants/income-generating potential to accommodate family members affected by Covid-19 and the economic downturn.

The implications alluded to above are not yet fully manifest and how they play out at scale remains to be seen. It is clear, however, that the socio-economic, institutional and resource environment has changed fundamentally as a result of Covid-19.

Shelter can be a first line of defence against shocks and stresses.

Isandla Institute/Eric Miller: Man doing laundry in Dunoon

Enabling backyard rentals: More urgent (and challenging) than ever

The trends summarised above suggest that the informal backyard accommodation sector, which has provided such an important – yet often imperfect – housing solution to poor urban households for decades, has become more precarious in the context of Covid-19.

Not only are backyard tenants at a higher risk of eviction (possibly because of inability to pay rent), but the land invasions associated with these evictions create other pressure points for city governments and may have lasting implications for the shape, form and pace of urban development.

While the need for public investment in infrastructure and sector support is growing, available funding is declining.

And whilst the economic impact of the pandemic is acutely felt by low-income households, it will also negatively affect the fiscus. Much of the country's economic activity occurs in urban areas. Reduced economic activity resulting in reduced taxes on incomes means already existing fiscal constraints in South Africa are aggravated. It is reported that for the fiscal year through 15 July 2020, South Africa lost R82 billion (Naidoo, 2020). Despite the easing of lockdown regulations, economic recovery is likely to take a long time. Consequently, we can expect a reduced budget at national, provincial and local level, compounding the existing reduction in the 2020 national budget for human settlements (Scheba & Turok, 2020).

Thus, while the need for public investment in infrastructure and sector support is growing (both to ensure that the urban poor have access to appropriate housing solutions and to prevent displacement, homelessness and land invasions), available funding is declining (Scheba & Turok, 2020). How then can the backyard rental sector be supported to provide dignified, affordable housing to low-income households? In addition to existing (albeit limited) delivery of basic services and infrastructure other support interventions are required, such as zoning, standardised building plans, rights education directed at landlords and tenants, and technical support for small-scale contractors.[5]

Critical to any response to, or supportive intervention towards, the backyard rental sector is an appreciation that it is contextual and dynamic. It is also predominantly informal, and in large part highly functional and responsive to particular housing needs. Social relations tend to be central to how the backyard rental sector operates (Watson, 1994). Because of social dynamics, rental arrangements tend to be more flexible and are not necessarily solely based on monetary exchange. There are also different types of landlords and tenants, which suggests that nuanced approaches are required. This means that interventions must move beyond a simplistic view of markets or affordability, and consider the role of social and contextual factors that influence the typology of backyarding that occurs in a given area.

This then calls for the development of appropriate and nuanced interventions that build on what works in particular contexts, that take stock of the actors contributing towards its success and are based on a multi-sectoral approach (SALGA, 2014; Scheba & Turok, 2020). Earlier in the paper it was noted that a national policy framework to inform appropriate responses to backyard housing is absent, and that municipal responses have historically been lacking. However, the decision taken by the City of Cape Town in September 2020 begins to gesture towards a more targeted and nuanced response to backyarding (see Text Box 3). A number of micro-developers and micro-financiers have emerged in this policy vacuum, without adequate regulation or support (DAG, 2020; Isandla Institute, 2020). This is further elaborated on in the recommendations section.

[5] *Further recommendations for backyarding are provided in the practice brief Backyarding: An important urban housing solution (Isandla Institute, 2020)*

Shift in City of Cape Town response to small-scale rentals

A positive shift for the informal rental market is the recent decision by the City of Cape Town's Mayoral Committee for Spatial Planning and Environment, taken on 1 September 2020, to approve recommendations enabling property owners in less formal areas across Cape Town to develop affordable small-scale rental accommodation compliant with the National Building Regulations. These recommendations include suggestions to:

- Amend the zoning scheme in areas where the City would like to encourage this form of development, either by creating an overlay zone, or by adding small scale rental units as an additional use within areas zoned as Single Residential 2: Incremental Housing;
- Create a menu of proto-typical building plans for small scale rental units from which the land owner can choose and submit to the City for approval in terms of the National Building Regulations;
- Prioritise the assessment of building plans in these areas, and to wave fees subject to the property's rates and service payments to the City being up to date;
- Increase the service infrastructure capacity in these areas;
- Establish a list of accredited small scale local building contractors;
- Host workshops in targeted areas to create awareness and to inform property owners of the benefits of small scale rental units.

Source: City of Cape Town (2020)

Text Box 3

Conclusion & Recommendations

The backyard rental subsector is a long-standing solution to the lack of affordable low-cost housing in South African urban contexts. However, backyarding does not provide a perfect solution; challenges relating to health, safety and tenure security persist.

The backyard rental market holds the potential to provide a suitable housing solution if the strengths of the sector are leveraged. This would require a multi-stakeholder approach that responds to needs such as improved access to services (with implications for health, hygiene and quality of life) and better quality housing, and that maintains the sector's flexibility and affordability.

The onset of Covid-19 has heightened the necessitity to rethink urban housing on a global scale.

The onset of Covid-19 has heightened the necessitity to rethink urban housing on a global scale (OECD, 2020). The need for decent and affordable housing options is being noted as a priority for health outcomes, and also important for the implications housing has on social and economic well-being. The Covid-19 moment presents an opportunity to leverage on existing housing solutions that work in a manner that not only responds to the challenges presented by the pandemic, but yields permanent solutions and aid in futureproofing housing in the event of a future crisis (Kholodilin, 2020). Considering that it is expected that the pandemic and its associated socio-economic impacts may be with us for years to come, the impetus to respond to the socio-economic effects is all the more compelling.

Thus, supporting, enabling and investing in the backyard rental sector is important for a number of reasons:

1. It provides an important – yet imperfect – housing solution that is responsive to the needs of a significant section of the urban population.
2. Suitable and appropriate backyard accommodation can minimise vulnerabilities made more extreme and pertinent because of Covid-19. This is both a development imperative and a 'smart' investment for the future.
3. It assists in minimising displacement, homelessness and land invasions – which create other development challenges and fiscal burdens.
4. It can contribute to improved work opportunities for tenants and sustainable livelihoods and economic empowerment for landlords and small-scale contractors.

While the rationale for supporting the backyard rental market is clear, how best to do so in a housing sector that is dynamic, highly contextual and that by and large functions well outside of formal rules is less straightforward. The critical issue is to focus on interventions that enhance tenure security, improve access to services and dignified housing and that create economic dividends. In doing so, two key characteristics of the sector – affordability and flexibility – should be maintained to avoid displacement and bureaucratisation.

The following recommendations are therefore made:

1. Provision of quality basic services and improvement in bulk infrastructure

Challenges to the provision of basic services exist at both household level, and depending on context, at neighbourhood level. At the household level, landlord-tenant relationships and availability of resources determine access to services. Depending on the type of backyard structure, services are often shared in the yard or accessed through the main house. Rationed services are estimated to be the most common cause of conflict between tenants and landlords. Hence, improved provision of basic services is a critical contribution to improved quality of life, health, hygiene and well-being. At the neighbourhood level, there may be a need to invest in an *improvement in bulk infrastructure*, but this varies across neighbourhoods.

Affordability and flexibility should be maintained to avoid displacement and bureaucratisation.

There have been initiatives to expand service provision to backyard tenants on Council-owned land (e.g. the City of Cape Town's Backyarding Support Programme) and proposals to create additional services points as part of new housing developments, in an effort to anticipate the emergence of backyard accommodation (e.g. initial policy research conducted by the Western Cape Human Settlements Department, which has not yet been formally approved). A key challenge is to expand basice service provision to backyard tenants residing on private land, as there are legal impediments that disallow municipalities services to do so.[6]

2. Interventions focused on tenure security

The flexibility of informal contracts in this sector – in terms of rent and duration – has for years contributed to tenure insecurity. However, *formalised lease agreement templates* may be of benefit, particularly for entrepreneurial and subsistence landlords and to safeguard tenants' rights, particularly where there are no familial relationships between landlord and tenant. Secondly, the backlog in issuing *title deeds* to landlords who own their property needs to be addressed to safeguard property ownership rights which enable access to finance, building plan approvals and property transactions.

Furthemore, *rights education* (for both landlords and tenants) and access to *recourse* when rights and responsibilities are not adhered to are important. Greater popularisation of the role and function of the Rental Housing Tribunal may be of benefit, especially detailing the scope of intervention in the informal rental housing sector. This could include resources on conflict resolution as well as legal advice centres offered by CSO institutions.

Last but not least, sustaining the *moratorium on evictions* under the national state of disaster will be critical, but further investigation is needed on how adherence can be monitored and enforced in the backyard rental sector. Again, this is where a Rental Housing Tribunal could play an important role.

3. Safe, adequate and dignified shelter

It is widely acknowledged that informal structures are substandard and associated with health and safety risks. Therefore, supporting efforts to provide good quality structures for backyard tenants is important – and all the more so in the context of Covid-19. A number of actions can be taken, such as developing *prototypes and housing design templates, awareness raising and capacity building of planning and building regulations* (for those landlords and tenants who intend to build improved structures) and *building support* (for example, by setting up a database of qualified local contractors).

Again, the reality of landlords not having title deeds can negatively impact on their ability to invest in housing improvements. Also, revisiting *zoning guidelines* to ensure that these allow for multiple structures on erven may be required.

4. Enabling environment

A critical aspect of enabling landlord, tenants and external stakeholders (such as micro-developers) to invest in improved housing solutions is to *reduce red tape* when it comes to planning approvals. Similarly, *relaxing stringent building regulations* so that these suit the backyard sector context (without compromising on safety and quality) may be necessary.

[6] *Both the Public Finance Management Act (PFMA, 1999) and the Municipal Finance Management Act (MFMA, 2003) prohibit public spending on privately owned land.*

5. Work with/through local networks and organisations representing the interests of backyard tenants and/or landlords

Some neighbourhoods have active networks and organisations around housing rights, including backyard tenant associations. Where these exist, it will be important to work with and through these organisations to identify appropriate interventions that suit their local realities, rather than impose external 'solutions'. In instances where these networks do not exist or are very weak, there is an opportunity for civil society organisations to support local mobilisation and organisation efforts on housing rights and support needs.

6. Support for local contractors and the local construction sector

There are a number of ways in which the local small-scale construction sector can be supported and incentivised. These include: *establishing a local database* of local contractors, possibly offering local contractors some sort of *'certificate of recognition'* (especially if they have participated in capacity building events); *awareness raising and capacity building of planning* and *building regulations; and, access to materials and new technologies.*

7. Working with micro-developers and micro-financiers

Micro-developers and micro-financiers are playing an increasingly significant role in accelerating the development of low-cost rentals, producing units of improved quality and better access to services. There is an opportunity for the state to partner with both financial service providers as well as backyard developers in creating both housing and job opportunities. Municipalities can support this sector through the provision of technical non-construction support such as the relaxation of building planning regulations and land-use approval, as mentioned above. Testing the potential of alternative building materials / green technologies may also reduce building costs and increase housing quality; such approaches can potentially be incentivised. The sector may also benefit from capacity building, and investment in data and technology can also be leveraged for the improvement of services delivered (Spiropoulos, 2020).

Testing the potential of alternative building materials / green technologies may also reduce building costs and increase housing quality; such approaches can potentially be incentivised.

There is a need to support suitable finance and loan options that meet the incremental nature of backyarding. A number of non-state finance institutions are providing finance for bolstering the sector; these efforts are impeded by a lack of certainty in the regulatory framework, especially the requirements for building and planning approvals. There may also be room to consider the role of technology to track churn of tenants to better understand and respond to the sector and attract potential investors (Melzer & Rust, 2020).

The recommendations above largely fall within the ambit of local and provincial government. This is not to suggest that national policy, including guidance on the use of financial instruments to improve tenure security and housing rights and support the backyard rental sector, would not be helpful. National policy would need to take into account the dynamic, flexible and contextual nature of the backyard rental market, rather than imposing a 'one-size-fits-all' approach.

Furthermore, to inform evidence-based policy and interventions, there is a need to address the lack of data and research at the micro-, neighbourhood, city-wide and macro-level. Much of the literature on the backyard sector is limited, outdated or too contextual for distilling broader lessons and policy implications. More specifically, little is known about backyard accommodation in the context of microeconomics or economic literature. Considering the impact of Covid-19 on the economy at a macro-level, as well as its impact on livelihoods, it is all the more important that we better understand costs as well as the use of investment in the sector.

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