

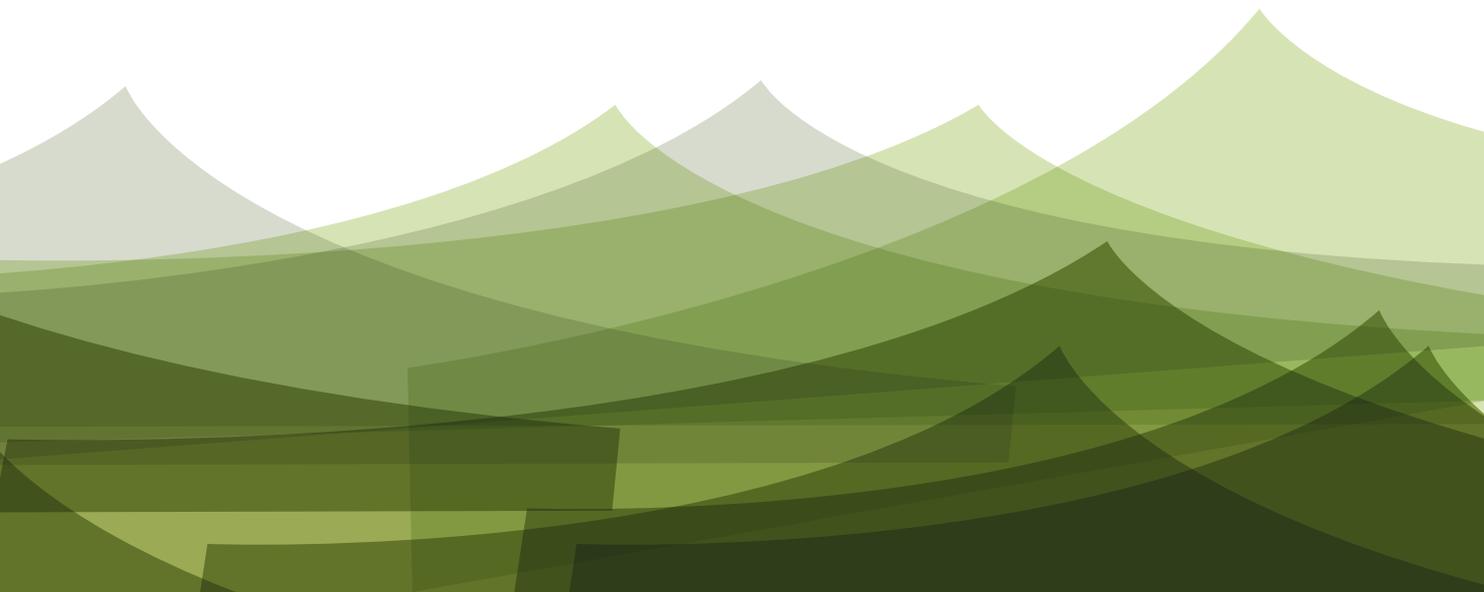
BIMKOM במקום

Why Is There No Development?

Barriers to Development in the Recognized Bedouin Villages
in the Negev, and Recommendations for their Removal

Executive Summary

August 2014



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This report was written within the framework of a joint project with **Adva Center**, "Promoting Adequate Planning and Development of Recognized Bedouin Villeges in the Israeli Negev".



The project is funded by the European Union

The positions in the paper can in no way be taken to reflect the views of the European Union



Bimkom — Planners for Planning Rights, is an Israeli human rights organization formed in 1999 by a group of professional planners and architects, in order to strengthen

democracy and human rights in the field of spatial planning and land issues, in Israel and in Area C of the West Bank, which is under Israeli control. Drawing on values of social justice, good governance, equality and community participation, Bimkom advances the development of planning policies and practices that are more just and respectful of human rights, and responsive to the needs of local communities.

Abstract

In the last decade the State has invested massive efforts in regulating Bedouin settlement in the Negev. Over time and following public pressure, 11 villages were recognized, in addition to the Bedouin townships, the last of which, Lafia, was established in the 1990s. The government has allocated large budgets for preparing outline plans and detailed plans for these villages, has established an extensive organizational and administrative system responsible for them, and invested significant funds in development, primarily in establishing schools and paving access roads to them.

Despite these efforts, it is noticeable that among the 11 communities which gained recognition in the past 15 years, only in one village, Tarabin a-Sana, did any physical development take place, and even then, only partial development. In all the other communities, even those which were recognized in the late 20th century, no development has been carried out, despite the fact that it is clearly in the interest of both the State and the Bedouin that the villages be developed. Hence a similar situation prevails in the recognized villages as in the villages which are not recognized and not planned.

Similarly to residents of the unrecognized Bedouin villages, most of the residents of the recognized villages are not connected to basic infrastructure such as electricity, water and sewerage, and even though each of these villages have statutory outline plans, residents are unable to obtain building permits — neither for permanent structures nor temporary ones. The residents are therefore subject to enormous pressure and are forced to deal with an intractable dilemma: On the one hand, they need homes, and that need grows over time, for instance when a son gets married and the father is expected to help build a new house. On the other hand, in the absence of a real possibility of obtaining building permits, any new construction is under threat of demolition. Against the background of this reality, in which the plans are not being implemented on either the family or the village levels, we undertook an in-depth interdisciplinary study between the years 2012 -2013, in order to expose, analyze and understand the barriers to development in the villages. We combined anthropological and planning research tools and perspectives, and our findings shed light on the connection between spatial layout, society and culture.

Our analysis focuses on physical development at both the family and the village level, with an emphasis on residential building permits and development of services, infrastructure and roads. These are essential prerequisites to social and economic development of the community. A supplementary report prepared by the Adva Center¹ focuses on the necessary steps to enable comprehensive development (including appropriate education and health services) on the basis of physical development.

The research report describes the existing spatial layout of Bedouin villages, and its unique principles; and also relevant government policy and its organizational and administrative systems which were formulated in order to regularize planning and land ownership in the recognized villages. Our analysis of these issues exposes the major barriers that prevent the development of villages, and is followed by our recommendations for the removal of those barriers.

¹ "The Recognized Bedouin Villages (Abu Basma):A Decade of Underdevelopment", Adva Centre 2014

A Snapshot of the Present Situation:

1. Population, spatial planning and development

Since 1998, the State has gradually recognized 11 Bedouin villages², home to some 30,000 residents. In 2004 the Abu Basma Regional Council was formed to provide these villages with a municipal and planning framework. In November 2012 the Abu Basma Regional Council was split, and the 11 communities which had been under its municipal responsibility were allocated to two new regional councils: Neve Midbar and al-Kasom.

All 11 communities are ranked by the Central Bureau of Statistics in the lowest socio-economic cluster (cluster 1). This rating also reflects a low level of education and high rates of poverty. Residents suffer from a lack of basic physical infrastructure, have only partial access to services and are daily exposed to environmental and health hazards, which lead to high rates of sickness.

All the villages except Tarabin a-Sana are communities that existed before they were recognized, hence their spatial layout reflects their organic development within the geo-political realities that influenced it. Although there are differences between the villages and even within them, all have common features of spatial distribution arising from their shared principles of traditional social organization. These principles include a social order that emphasizes the centrality of the family, its land ownership, gender separation, and maintaining privacy in its various aspects. The outcome of these principles is a spatial layout based on clusters of family living areas (neighborhoods) which are then divided into residential complexes of extended families (the extended family includes the father, his wife or wives, his unmarried sons and daughters, and his married sons and their families). Residential clusters are separated by dirt roads, which mark their boundaries and allow general movement along them, while selective movement is possible along internal "private" roads within each family neighborhood.

As stated, the layout of the Bedouin villages was impacted by various geo-political constraints. The governmental prohibition on new building, and with it the Bedouin's fear of home demolitions, has led to more dense building than in the traditional model. Nonetheless, the existing layout is significantly different from the norms of the Israeli planning institutions.

The government planning process for the recognized villages largely ignored their spatial reality and its logic. There have been two planning approaches: The planning approach of the first-generation plans focused on densification and on attempts to create concentrations of the population, as if the area was empty of inhabitants and buildings. This approach maintained that existing residents would need to evacuate their homes, the existing buildings would be demolished and new construction built in their place. The second generation outline plans were intended to produce plans that allow "regularization in situ". Indeed, second-generation plans include components based on the existing physical layout. Nonetheless, even in villages with such plans, the plans do not allow for regularization of all existing construction, because they do not try to understand the underlying principles of the current physical layout.

There are some 40 outline and detailed plans for the Neve Midbar and al-Kasom villages, which determine the variety of land uses. These include 17 approved detailed plans covering 4,896 residential plots and allowing for the erection of 10,319 units. In practice, however, only 128 residential building permits were issued in only two villages: 119 building permits in Tarabin a-Sana and nine building permits in Abu Krinat. A decade after the establishment of the

² Abu Tlul, Abu Krinat, Kasr el-Ser and Bir Hadaj which are now under the auspices of the Neve Midbar Regional Council; Tarabin a-Sana, Umm Battin, el-Saed, Molada, Makhul, Abu Rabia and Darijat, which are now under the auspices of the al-Kasom Regional Council.

Abu Basma Regional Council, the development of infrastructure in its villages is minimal. Most of the villages have access roads and schools, and some have medical clinics. However, thousands of homes (built without permits) and many of the public buildings are not connected to basic infrastructure such as electricity and water, and in most cases, there are no roads to them.

2. Authorities responsible for the Negev Bedouin

In contrast with other citizens, for whom many day-to-day issues are arranged by their local authority, the relationship between the State and the Bedouin villagers is largely mediated by institutions at the central government level. This is reflected in the establishment of special government institutions responsible for supervising and dealing with the Bedouin population. As a result, the Bedouin have little ability to influence policy or decisions affecting their lives.

Over the years, these specialized institutions sometimes changed names, or transferred powers between them. In recent years, the number of these special institutions has even increased, their modes of operation have expanded and budgets enlarged. In addition, various government offices operate vis-à-vis the village residents, each in its own sphere of influence.

3. The issue of land ownership

The main disagreement between the Bedouin and the State revolves around the issue of land ownership: Bedouin claim ownership of the lands on which they lived before 1948, and also the lands they were transferred to after 1948. The State, on its part, refuses to recognize this private ownership, arguing that most of the land was never registered in either the Ottoman or the British Mandate³ land registry. While modern land regularization is based on registration, most Bedouin have relied on traditional ownership arrangements, without registering their land with the authorities. The State has made use of this argument to assert that land claimed by the Bedouin is actually State land.

To date, there are 2,749 unsettled land ownership claims concerning some 592,000 dunams. According to various estimates, **some 90% of the land in the Neve Midbar and al-Kasom villages is unregulated and has ownership claims relating to it.**

The responsibility for solving the ownership claims, and for negotiations with the claimants is in the hands of the Administration for the Coordination of Bedouin Affairs (ACBA, otherwise known as the Bedouin Authority). ACBA is responsible for the allocation and marketing of plots of land. To date, actual marketing of land for housing has taken place in Tarabin a-Sana, which was established on State land, and therefore its lands are not contested, in addition to some 30 plots in Abu Krinat, following the signing of a number of ownership agreements. As far as we have been able to ascertain, beyond these, not a single agreement settling land ownership has been signed, in which a plot was allotted to the claimant, nor was there provision of permits to build homes. Recently there have been dozens of applications for plots in the villages of al-Sayed and Darijat, but the marketing process has not yet begun.

³ Before the establishment of the State of Israel, the land was controlled by the Ottoman Empire, and later by the British Mandate, each of which land registry procedures.

Barriers to development

Analysis of the various aspects of the current situation points to a network of obstacles that are connected to one another and influence one another, causing an almost complete standstill in development. Following are the main barriers identified:

1. Conditioning development on regularization of ownership regarding land which is disputed between the Bedouin and the State

Land ownership has significant symbolic value in Bedouin culture and in the Israeli establishment alike, and is linked to questions of identity, sovereignty and existential security. Control and ownership of land is seen by the State authorities as an expression of, and as a tool for, governance and enforcement of order, while the Bedouin consider ownership of the land to ensure family and community survival — hence the complexity of the conflict regarding the land, which is not purely about ownership. The State insists on regularization of the land according to its values and its terms, and Bedouin are fearful of dispossession, not only of their land but of their entire lifestyle.

It is against this background that the State's conditioning of spatial development on the settlement of disputed land claims should be considered. Conditioning development in this way leads to conflict regarding a matter in which the Bedouin and the State in principle hold a common interest. The State makes use of a topic regarding which there is no basic conflict — the issue of planning regularization in the villages — to pressure for a solution of the ownership issue. It should be added that negotiations regarding settlement of land ownership are subject to conditions set a priori by the State and are unacceptable to the Bedouin. Hence the requirement to settle the issue of land ownership effectively changes the planning of the village into a conflict over land, and raises fears and deep suspicion on both sides, who consider all other aspects of reality through the mirror of land ownership. This requirement is the most significant barrier to the development of the villages.

2. Planning and development policy differs from the local principles of development in the villages and often contradicts them

Regulation of Bedouin settlement by the State strives to implement standardization based on the supposedly neutral model of settlement standards, at the center of which are concentration and densification⁴. This model fits the housing culture and organization of space appropriate for urban society, which is organized around individuals and nuclear families. The traditional rural society of the villages, however, has its own principles of layout and organization of space; extended families divide land ownership internally, and create the layout of the village to reflect this spatial division.

Significant differences between the planning language of the authorities and its strategies of implementation, and the local spatial language and its rules of development, are the main reason that statutory plans for the recognized villages do not meet the needs of their residents. Planning concepts such as zoning⁵, functional densification, and planning units based on nuclear families, are foreign to the local spatial principles which are based on extended

4 Concentration of residents into a designated area, and densification of building there in rather than expanding the boundaries in which building is possible.

5 Creating separate zones for each type of land usage, such as an area zoned for housing, an employment zone, an area of public services etc.

families, private land, and mixed land use⁶. Government plans are not implemented because they ignore or do not understand these issues.

The map of land ownership has significant ramifications for planning, and is a clear expression of the problem. Regardless of its legal status, the ownership map is accepted and respected by all Bedouin. Government-prepared outline plans have ignored this map. The outcome is that the plans are not implementable and require correction, either because they designate land for populations who do not own it, or because they allocate private land for communal uses without considering the owners' intentions or coming to an agreement with them.

Regarding roadways, too, the government plans reflect the culture of the planners rather than that of the intended Bedouin users. Planners and transportation consultants consider roadways as a technical issue intended to provide an effective solution to accessibility, and to link the various areas of the village together. However according to local development principles, roads have other important functions. Main roads separate between clusters of residential areas and mark the boundaries between them, this being their main purpose. Since such roads separate private lands of extended families, they are not considered private, and may be used by all comers, and therefore they can and do serve as main roads. By contrast, the interior neighborhood pathways which branch off from the main roads and pass through family lands are private by nature, and are intended for the use of the family and its guests. Ignoring the complexity surrounding roadways and the importance that Bedouin village society attributes to privacy, leads to the statutory approval of plans that are inappropriate for their way of life and are therefore un-implementable.

Some barriers which arise from these differences of spatial concepts come to light at the stage of actual development and prevent its implementation even if the plan is accepted by the residents. For example, ACBA conditions the provision of infrastructure for the village on the immediate contiguous development of at least 75% of the village plots. This requirement ignores the basic Bedouin concept according to which a father must save land for his sons to build houses in the future. As a result, the State's requirements are not fulfilled and development is once again blocked.

3. Multiplicity of authorities without a clear hierarchy

Given the failure to implement government policy, the State, over the years, has increased the number of authorities engaged in regulating Bedouin settlement. Along with this, it has also expanded the mechanisms used by these authorities, and their workforce has grown significantly. The Bedouin Administration was established in 1986 with a limited number of employees, as a dedicated authority to deal with the issue. Later, the Abu Basma Regional Council was established. In 2007 ACBA was established in place of the Bedouin Administration. Most of the staff of the Bedouin Administration was transferred to ACBA, along with most of the planning and development budgets previously allocated to the Abu Basma Regional Council. In recent years both staff and budgets of ACBA have increased. In 2011 a further body was established, the Implementation Team for Settlement and Economic Development of the Negev Bedouin⁷. As a result, a large and complicated bureaucracy has been formed, with authorities and other bodies having overlapping roles and with unclear hierarchy between them. This situation is a recipe for problems, with the policies of the various bodies cancelling each other out, thus rendering decision-

6 A combination of housing, back-yard farming, industry and commerce in a single area, with changes in the balance between uses over time, according to need

7 At the time of production of this report, in June 2014, the Implementation Team has been disbanded and its responsibilities moved to the Ministry of Agriculture and Rural Development.

making and implementation difficult. When there is no clear hierarchy between the authorities involved, and they have overlapping responsibilities, no single body can take charge, but any one of them can block actions initiated by another.

Bedouin residents thus face a multitude of agencies and officials, but see them all as representatives of the State and its policies. Any attempt by one entity to renounce the actions of another governmental authority — even if one truly has no connection to the actions of the other — is seen by the residents as a scam, because in their eyes, all the various authorities dealing with the matter are State officials exercising the same government policy.

While the Bedouin perceive the authorities' actions as being directed against them, the establishment officials often see the Bedouin as opportunists who want to maximize their control over land, who do not show solidarity with other Bedouin, and who change their minds from one moment to another, and even go back on agreements made with them. The result is a deep crisis of confidence. Even though this situation is common knowledge — as is the reality that in the absence of mutual trust, there cannot be agreement on how to move forward — no confidence-building measures have been undertaken, since this would require an openness and innovation that are not possible in the present constellation of entities.

4. Local Government which is unable to function

Increasing the number of authorities dealing with regulation of Bedouin settlement, expanding the mechanisms and entities with responsibility for the issue, as well as the transfer of all the planning and development budgets previously allocated to the Abu Basma Regional Council, all greatly weakened the regional council and turned it into an entity that has almost no ability to function. Thus the local government, which for all its limitations is closest to the residents, cannot grant building permits, cannot advance development plans, cannot initiate planning that is not funded by the government, and has no ability to intelligently manage the land reserves required for its future development and for the benefit of the population it is supposed to serve.

Summary

Actual development is effectively imprisoned within this tangle of barriers. Residents suffer from this lack of development and the State is frustrated in its inability to advance it. We conclude that changes in attitude, policy and planning language are required in order to achieve a breakthrough. To that end, first and foremost the crisis of confidence must be dealt with, by taking dramatic steps to clarify to residents that the State is working for their good, that it understands their situation, and is striving, even under problematic legal circumstances, to answer their most pressing needs.

Recommendations

1. Freeze demolitions and grant temporary building permits for young couples near their parents' homes

A freeze on demolitions of existing buildings until the end of the regulation process would demonstrate the State's willingness to work toward a respectful solution, and would restore the Bedouin residents' trust in the intentions of the State. We also suggest that the State permit construction of temporary buildings for young couples in their extended family plot, in order to answer the most pressing need in Bedouin society — the need for housing for married children in their parents' compound⁸.

2. Incorporation of local principles of spatial layout in statutory planning of Bedouin villages

A fundamental change is needed as far as the authorities' planning approach is concerned, in order to make it possible for plans they prepare to be implemented. The approach must become more flexible so that it can accommodate local principles of spatial distribution. The social principles on which the existing spatial layout of Bedouin communities is based must be the starting point for statutory planning which will allow these principles to continue to exist, while not setting them in stone, but rather open the way to change them from within Bedouin society.

In this spirit, planning must be based on:

- A. The accepted Bedouin system of land ownership. Regardless of legal status, the local map of ownership will constitute the foundational layer of the plan.
- B. Residential clusters which include various branches of a particular family (in many cases, other family members live near the father, such as relatives who chose to live near the wife's family, with her family's consent, and more distant relatives as well as landless families who have been "adopted" by those who own land in the village and allow them to live there as permanent guests) will form the basis of each residential neighborhood. Family compounds, which include an extended family of a father, his married sons and all his unmarried children, will constitute the basic planning unit.
- C. Family land will also provide for the needs of the next generation, who will live next to their parents. Rather than requiring immediate building contiguity, development must allow for leaving some land free for future building, such that the principle of contiguous building will be implemented only in the medium and long term.
- D. Landless families who live in the community as "guests" on land belonging to others will be allotted State land for their children. In the case of a locality with no State land (a very rare phenomenon), the problem of landlessness can be resolved through land exchange agreements between residents, initiated or assisted by the planning team.
- E. The existing system of roads and pathways will constitute the basis for planning the road system of the locality. Land uses will be grounded in this system of roads, neighborhoods and residential complexes, and will be based on principles of mixed usage rather than zoning.

⁸ These temporary homes would be taken down on the implementation of a final regularization agreement which allows building of permanent homes.

F. In places which have a plan that is not in the spirit of the above recommendations, and that cannot be implemented, the State will initiate the necessary amendments to the plan.

G. These planning concepts and language will also be incorporated, with necessary changes, into the planning of villages whose residents have no land ownership claims.

3. Full public participation throughout the planning and development process

A principle which is essential for any planning, and especially planning which seeks to combine two different planning languages, is the active participation of residents throughout the process. Real, thorough public participation has two stages: The first is a process of mutual learning between the planning team and residents. The second stage is focused on building consensus among the residents and between them and the planner, a process which is initiated and accompanied by the planning team. This two-part process should be individually tailored to each village based on knowledge of its specific traits. Success in planning and development depends on maintaining this process throughout all the stages of planning and development.

4. Separation of development from land ownership arrangements

The development of the Bedouin communities must be advanced even in the absence of regulation of land status. The premise that development processes are being prevented because the issue of ownership status of the land has not yet been finalized, must not be accepted. Even now, in various cases, agreements have been reached without settling the disagreement regarding ownership.

- In villages in which there are ownership claims by Bedouin, regularization of settlement and building must be enabled without land status regulation, leaving the land unregulated. Negotiations regarding disputed land ownership will be carried out separately.
- The issue of land ownership should be separated from negotiations between the authorities and the residents regarding the allocation of plots. The condition, according to which marketing and development of land can only take place after signing an agreement to resolve the land ownership dispute, must be cancelled.
- Adopting planning policy which regularizes the present situation, and consideration of the land ownership map as a basis of planning, would largely help in postponing the legal dispute regarding the status of the land, and would remove this barrier to development.
- Concomitantly, solutions must be found for families that do not own land within the boundaries of their village. The possibility of extending the boundaries of the village and / or providing them with State land should be considered.

Separating planning regularization from resolving the dispute over ownership of the land would free the process from the atmosphere of conflict that characterizes it today and would allow real progress in developing the villages.

5. Open negotiations to reach an agreement regarding land ownership

In parallel with removing the requirement to settle the land ownership issue as a prerequisite for development, a framework must be created for genuine negotiations between State officials and Bedouin representatives regarding land ownership, in order to reach shared agreements on the basis of which later individual negotiations can be carried out.

6. Changing the objectives of the Bedouin Authority and strengthening local government while reducing the number of authorities and mechanisms

The bureaucracy involved must be drastically cut back and simplified, and made accessible, transparent, and connected to residents. In addition to reducing the number of authorities, there must be a re-examination of the Bedouin Authority's objectives and operating methods. We recommend that the Bedouin Authority maintain responsibility for individual negotiations regarding land ownership, which will follow the open negotiations recommended above. This should, as mentioned, be separated from the planning process and development of the communities, which will become the responsibility of the Neve Midbar and al-Kasom regional councils.

7. Economic aid

It must be ensured that the regulation process does not exacerbate the existing economic distress in the Bedouin villages; rather, it must find a way to take advantage of planning for the economic benefit of the population. The transition from non-formalized settlements to regulated localities involves huge financial expenditure which many Bedouin families will have difficulty meeting. The transition to formal housing includes a list of conditions which did not apply to their informal housing, such as paying for the production of building/development plans, requesting a building permit, various levies and fees, in addition to the expense of building a permanent dwelling, etc. The State should offer the Bedouin grants and long-term loans subsidized by the government, and additionally, should invest in construction of commercial centers, employment and tourism, which will ensure high property tax income for the villages. The State should allocate land for agricultural enterprises and allocate water as needed for this. Along with these, as part of the planning process, current sources of livelihood and income should be identified and the plans should allow for their preservation and development in the future. At the institutional level, this requires appropriate funding of the local authorities so that they may fulfil their functions vis-à-vis planning, development and provision of services for the communities and their residents.

Summary

Adoption of these recommendations in their entirety is essential to the success of the development process. In this way, the State will set a new agenda in its relations with the Bedouin communities and transmit a message of openness and accountability regarding the Bedouins' needs and status. The State must internalize that the transition from non-formalized settlements to regulated localities must be gradual, so as not to undermine the foundations of Bedouin society. This understanding must precipitate the necessary flexibility of planning concepts, of the general approach of the authorities, and of planning and development policy. Israeli society stands to benefit from the strengthening and development of the Bedouin villages, provided that this development occurs at a rate and in a manner appropriate to their residents.

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