



האגודה לזכויות האזרח בישראל • האגודה לצדק חלוקתי • במקום – מתכננים למען זכויות תכנון • הקליניקה לזכויות אדם בחברה באוניברסיטת חיפה • הסדנא לתכנון חברתי, האוניברסיטה העברית • התנועה לחיים בכבוד • איתך מעכי • המרכז הערבי לתכנון אלטרנטיבי • סיכוי – לשוויון אזרחי • שתיל

## The Coalition for Affordable Housing

November 2012

### Ways to Integrate Affordable Housing into the National Housing Program\*

#### Executive Summary

\*according to the Law of Planning and Building Procedures for the Acceleration of Residential Construction 2011, (the National Housing Committees Law)

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## 1. About the coalition

The Coalition for Affordable Housing<sup>1</sup> in Israel (henceforth: “the Coalition”) is a group of organizations specializing in the fields of planning and law which have together chosen to promote an issue of great public importance. The Coalition works in various ways within the public arena to advance this goal: participating in meetings of various Knesset committees; challenging government ministries, local authorities, and planning institutions; participating in conferences and seminars; consulting, guiding and providing information to various groups organized as a result of the social protests, etc.

Recently, the Coalition has been striving to integrate affordable housing solutions into the plans submitted to the National Housing Committees (henceforth: NHC)<sup>2</sup> for approval. The Coalition has filed objections to several plans submitted to NHCs in various regions. We have demonstrated that the plans were submitted without regard to significant clauses of the National Housing Committees Law regarding the necessary variety of housing solutions, including affordable housing. Representatives of the Coalition also held a meeting with Dr. Shuki Amrani, Director-General of the Interior Ministry and Chairman of the Central NHC, which operates alongside the National Council for Planning and Construction. During the meeting, the coalition proposed ways to integrate and implement affordable housing into the fast-tracked program enabled by the NHC Law (henceforth: the NHC Track).

Notably, in recent years the discourse on affordable housing has changed among policy-shapers and decision-makers, partially as a result of the Coalition’s activities. As a result of an uncompromising social struggle that reached a climax in the social protest movement of summer 2011, significant issues connected to affordable housing were included in the NHC Law moments before it was passed. Despite all this, the entities responsible for promoting national housing plans are not sufficiently implementing the requirements detailed in the Law into the plans. Furthermore, even if these requirements were to be implemented, the Coalition believes that they are not sufficient and that there is a need to continue to struggle for the inclusion of important additional instruments through continued discourse.

## 2. About this paper

In this document, the Coalition provides focused and practical information regarding possibilities in the NHC Law for providing a solution to the housing crisis in Israel and integrating affordable housing into the planned housing supply. This information is targeted towards members of NHCs and additional authorities who can influence the way national housing programs are carried out– such as the public initiators (the Israel Land

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<sup>1</sup> The terms “affordable housing” and “attainable housing” will appear alternately in this document, the intent is the same.

<sup>2</sup> NHC – A National Housing Committee works on national housing programs and advances them in expedited planning procedures. From the explanatory notes of the bill, 2011.

Administration and the Ministry of Housing and Construction) and planners working on their behalf.

The goal of this document is to assist in understanding the possibilities inherent in the clauses of the NHC Law, including ways to implement them so as to create a planned housing supply that is high-quality and varied, made up of units of mixed sizes and mixed forms of occupancy, including long-term rental and affordable rental. This paper will present these instruments in a clear manner and will clarify the ways of implementing them in plans advanced by the NHC track.

In addition, following the submission of this document, Coalition representatives will be glad to provide additional information, as needed, on affordable housing and possible ways to implement it within the planning process.

### 3. Responsibility for the planning process

Affordable housing is an important topic in planning which has not yet been adequately regulated by policy or legislation. The clauses added to the NHC Law moments before it passed, as mentioned above, are especially important for this reason. The Comprehensive National Outline Plan for Construction, Development and Conservation (NOP 35, which took effect in 2005), explains in detail (clauses 12, 14) that it is the responsibility of planning institutions to determine the need for affordable housing (including determining the appropriate amount) in local plans for considerable expansions and plans for urban renovation or preservation. In addition, as part of the Lands Reform (conducted in 2009), it was determined that one of the responsibilities of the Lands Administration is allocation of land for affordable housing.<sup>3</sup>

NOP 35 and the Lands Reform refer to affordable housing only in a general way. In contrast, the NHC Law specifies for the first time three important operative instruments that contain the potential for effective handling of the various housing crises by creating a diverse planned stock of housing units tailored to the entire population. Therefore, it is of utmost importance to be familiar with the various instruments included in the law, in their entirety, and to ensure they are integrated into the plans submitted to National Housing Committees throughout the country.

### 4. The NHC Law – Three instruments for creating inclusionary housing

#### The objective of the NHC Law:

The objective of the law is to determine “special regulations for approving residential construction plans that will allow the provision of solutions to housing needs by supplying residential housing in various sizes and of various types, including through zoning land for rental housing.” (Clause 1).

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<sup>3</sup> Clause 2a(1) of the Israel Land Administration Law 2009 determines that “These are the responsibilities of the authority: allocation of land for residential purposes, affordable housing, public housing... In places and amounts required by the needs of the market, society, and environment, including future needs.”

Namely, the law has two primary purposes:

1. Expediting planning procedures to increase the housing stock
2. Ensuring a diverse planned supply of various types of housing units.

The second purpose involves determining and identifying the quality of the supply in order to enable the provision of housing for people from various social and economic backgrounds. The first purpose is meaningless without the second.

The three instruments:

In order to realize this dual purpose, clause 3 defines three instruments:

1. Small apartments (a mixture of housing unit sizes, at market rates): including consideration of the ratio between them and the rest of the housing units in the plan.
2. Long-term rentals (a mixture of occupancy types, at market rates): buildings fully or partly designated for long-term rental.
3. Zoning for affordable rental housing (a mixture of occupancy types, by intervention in the market rate): if this zoning is designated, the price, conditions and eligibility for the housing must be regulated in the plan's provisions.

It is important to note that the first two instruments depend on the power of the market while the third instrument is the only one that allows for intervention in market prices and creating infrastructure for real affordable housing, even if only as rental units.

As the law states:

Clause 3(a): "A national housing plan shall include provisions for putting in place public buildings, public and open areas, parking, infrastructure, and additional uses required for the housing units included in the plan, as well as provisions for the sizes of the housing units and the ratio between small and large housing units in its domain. The provisions may also determine that a building – in whole or in part – is designated for rental housing, and may determine the period for which it shall be designated as such, which shall be no less than ten years, and may also determine that land is zoned for affordable rental housing."

Clause 3(b): "If land is zoned as such, the housing units shall be rented in accordance with the provisions that shall be determined, inter alia, regarding the rental terms of the housing units, including rental price, limitations on transferring eligibility for the housing units, and eligibility for renting the housing units."

### What do the three instruments have in common?

The provision of the above three instruments in the NHC Law enables planning entities to begin to deal with inclusionary planning<sup>4</sup>, with the goal of creating a diverse residential environment. The achievement of this social goal, which will allow for the attainment of many additional social goals including the right to adequate housing<sup>5</sup>, requires the intervention of the state, the regulator, in all aspects of housing, including the price.

An important planning principle for creating mixed housing is the principle of integration, under which the various types of housing units must be distributed throughout each neighborhood/compound/building. It is important to ensure that this principle is being applied for each of the instruments, meaning: in each neighborhood/compound/building, apartments of various sizes are built, with some of them allocated for long-term rental, while the affordable rental housing zoning is integrated with other types of residential zoning. Thus, with the help of planning, it is possible to prevent the construction of homogenous neighborhoods which exclude certain population groups and distance them from critical aspects of economic and social opportunities such as housing, education, access to transportation, employment, etc.

Decisions regarding the quantities of each instrument in each project should be made on the basis of a detailed, current, local needs assessment of the population residing or expected to reside in the area under evaluation, based on an analysis of the available housing stock available or lack thereof. The goals of the assessment are to answer questions such as: How many apartments are there and how many will be needed within a certain time period? For whom? At what prices? etc. From the needs assessment, it is possible to understand the existing and potential housing needs of a wide variety of population groups. Accordingly, it is possible to make practical conclusions and define the necessary ratio between apartments of various types: large for-sale affordable apartments, large affordable rental apartments, small for-sale affordable apartments, small affordable rental apartments, small market-rate rental apartments, etc.

### 5. Recommendations

The following are operative recommendations regarding each of the above instruments:

#### Mixing housing unit sizes

- Each plan will define percentages of small housing units (up to 75 square meters) out of the total housing units defined in the program, in accordance with a current needs assessment.
- The small housing units must be determined as a particular percentage of each plot and a provision must be included ensuring their integration into each building.

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<sup>4</sup> Inclusionary planning: Planning with an emphasis on a diverse social composition which prevents population segregation on the basis of socio-economic background and aspires to a diverse mixture of populations of various income levels and backgrounds.

<sup>5</sup> According to the Coalition's method, affordable housing can include a variety of housing solutions, including public housing.

- The mix of housing sizes must appear as a mandatory provision in the plan and not only in the construction appendix, which is mostly a guide.

### Long-term rental

- In every national housing plan, a clause will be added to the provisions to ensure the creation a mix of occupancy types, as stipulated by the NHC law, so that a certain portion of the apartments within the plan's domain is designated for long-term rental units, in accordance with a current needs assessment for the relevant location.
- Every national housing plan must determine the integration and dispersal of long-term rental housing units between all the plots, while ensuring their integration into each building.

### Zoning for affordable rental housing

- In every national housing plan, land will be zoned for affordable rental housing or mixed zoning for both residential and affordable rental housing.
- Affordable rental housing units will be distributed evenly throughout the plots or relevant zones, while ensuring their integration into each building.
- The housing unit quantities to be defined as affordable rental housing will be determined in accordance with a current needs evaluation.
- In coordination with the local planning committee, a clause must be added to the plan's provisions to condition the approval of a building permit upon the submission of a document regarding the accompanying issues upon which the implementation of the new zoning is dependant (price, terms, eligibility, and inspection).
- If the national housing committee decides not to implement this instrument, it must explain this decision (the director-general's circular also requires this explanation, clause 5 of the circular).

## 6. Clarifications regarding discretionary authority and mandatory authority

Each of the three instruments detailed above has different statuses within the law. The first instrument is defined as mandatory by the law (mandatory provision: "A national housing program shall include provisions....") while the second two instruments are defined as discretionary (in open terminology: "may be determined...").

Even though the second two instruments are not mandatory, the committee is not permitted to ignore them and is actually obligated to discuss them. If the committee ignores the authority given to it, it makes the law into a dead letter and shirks its responsibility. The planning committees, including the national housing committees, not only have the right to exert their authority, but also an obligation to consider exerting that authority as needed. Court rulings have determined that there are situations in which the authority vested in a discretionary authority become mandatory,

and there are instances in which the failure to exert authority is considered unreasonable or an extraneous consideration.

## 7. Conclusion – NHC as an opportunity for change

Despite the problems involved in circumventing the full planning process, the NHC Law could be an opportunity to bring about meaningful change in the variety and quality of the housing supply in Israel. Legislators included the above-mentioned clauses in the law as a response to the social protest movement. These clauses are the ones that actually give the NHC Law its public mandate. The plans promoted by this track must be approved only after the recommendations detailed in this document have been taken into account and implemented to the extent possible. The provisions of the law regarding affordable housing constitute a change in the full set of planning considerations, but it is also essential to implement them, in order to ensure the existence of a healthy and just society in which all its residents can exercise their right to housing.

The Coalition for Affordable Housing calls on everyone involved to see the three instruments detailed above (in particular the instrument for integrating affordable rental housing) as an opportunity for meaningful change in the residential planning process in Israel, and to utilize them as appropriate.