

*Housing Distress  
within the Palestinian Community of Jaffa:  
The end of protected tenancy in absentee ownership homes*



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## Executive Summary

This position paper is the result of collaboration between the non-profit organization BIMKOM - Planners for Planning Rights, the Technion Laboratory for Planning with the Community, and the People of Jaffa's Committee for the Preservation of Rights to Land and Housing.

The report investigates the story of a major wave of eviction and demolition orders facing nearly five hundred homes in Jaffa. Most of these homes are 'absentee ownership' properties, administered through a Government body set up to manage the homes of Palestinians who were no longer living in the country after the 1948 war. Today the homes are occupied by mostly Palestinian Israeli families, under a 'protected tenancy' agreement.

When we began researching the situation in January 2008, the People of Jaffa's Committee was leading a determined public campaign for tenants' rights against the eviction and demolition orders, and was providing legal aid for families who needed immediate aid. We found that Palestinian citizens in Jaffa face many and varied housing problems. This report focuses on only one aspect of the problem, that of protected tenants in absentee ownership (AO) properties. Our goal was to investigate the background for the wave of eviction and demolition orders, with a particular focus on the urban planning aspects, in order to make recommendations for change.

We ask four main questions:

1. Why have so many eviction orders been issued?
2. What is the responsibility of the Israel Lands Administration (ILA) and the Municipality of Tel Aviv-Jaffa? Can they freeze the evictions, and do they have the authority to enact solutions?
3. Do Palestinian protected tenants receive different treatment than Jewish protected tenants? Are there variations in different areas of the city? Outside the city of Tel Aviv - Jaffa?
4. What tools and policies can help Palestinian low-income households to continue living in Jaffa?

## 1. The reasons for the evictions

Approximately 40% of the Palestinian population in Jaffa lives in absentee ownership (AO) properties, in about 2,000 homes. About one in four face eviction and demolition (497 homes).

The Israel Lands Administration (ILA) defines tenants who breach conditions of the contract or of the law as "squatters". Breaches of contract include:

1. Building/construction without a permit, and Squatting in empty homes or occupying empty sections of a building.
2. Remaining in AO homes after the death of the original protected tenant, except in special circumstances.
3. Failure to pay rent.

### ***1.1. Building and/or construction without a permit and squatting in empty homes or occupying empty sections of a building:***

From 1949-1992 it was illegal to renovate or expand any apartment in the Ajami area of Jaffa, including all of the AO properties. The entire area had been declared a slum clearance zone and was slated for demolition. The planning authorities denied all requests for renovations or new construction. Lacking any legal permission to expand or renovate their crowded and deteriorating flats, the tenants coped with natural population increase by illegally adding new rooms and illegally occupying adjacent vacant rooms and flats.

### ***1.2. Remaining in AO homes after the death of the original protected tenant, except in special circumstances:***

The law stipulates conditions under which the AO homes can be inherited -- by a spouse or a child only -- after the death of the original protected tenant. The first condition is that the beneficiary must have lived together with the eligible tenant for a period of at least 6 months prior to his or her death. The apartment can only be transferred to one 'generation' -- i.e. to a child, but not then a second time to a grandchild. As of today, after approximately 60 years, the third generation of the original tenants find themselves defined as 'squatters' in their parent's home - the home where they were born and spent their childhood.

**1.3. Failure to pay rent:** The rents collected from tenants in protected housing are minimal - about 10-20% of the market rent fee for a comparable apartment. Some tenants have large outstanding debts accumulated over many years, in some cases, due to non-payment. In other cases, we heard charges that the management company had ceased collecting the rent over many years, apparently because the cost of collecting rent was sometimes greater than the amounts received. Tenants in rent arrears are considered 'squatters'.

We conclude that while the era of tenant protection in AO properties is slowly coming to a close, tenants remain frighteningly unaware of the implications. In particular, protected tenants are unaware of the limitations on the transfer of property rights to the next generation that essentially prohibits families from continuing to live in their current housing units. This situation is not unique to Jaffa. AO tenants in the mixed cities Acre, Haifa, Ramle and Lod, among others, face similar problems.

## 2. The Israel Lands Administration (ILA)

The Israel Lands Administration is the Government body responsible for administering national lands, and also oversees absentee ownership (AO) properties, through an agency called the Development Authority (DA). This section investigates their responsibilities and authorities for the problem.

In 1995, the ILA promised to provide land in Jaffa for 400 subsidized new-build homes for Palestinian Israelis in Jaffa. The promise followed a mass public action by the Palestinian community of Jaffa, in which 150 young couples, eligible for government mortgages, deliberately squatted in empty and boarded-up AO apartments. The 'squatters' promised to vacate the homes, in return for the written promise to initiate a program of new-build low-cost home ownership, called 'Build Your Own Apartment', together with the Ministry of Housing. To date, only 22 homes have been built. Many, and perhaps most, of the designated sites have since been sold through closed bidding ('tender') and we found no indication that the ILA intends to honor its commitment to provide land for a further 378 homes.

In 1996 the ILA made a little recognized decision of major proportions. They decided to sell off all remaining absentee ownership properties, all across the country (a decision of questionable legality under international law). The stated rationale for the decision was to reduce bureaucracy and lower management costs. Protected tenants were given the first option to purchase their share of the property at a substantial discount. The discount was initially pegged at 60% less than the assessed market value (between 01/2002 and 12/2003) and then lowered

to 40% after 1/1/2006. Once a tenant refuses the option to purchase, or is found ineligible, the properties can be sold on the open market, through a competitive tender.

The report describes the ILA conditions for selling the properties, and then focuses on the obstacles tenants face when trying to purchase their properties, including:

- Many tenants are unaware of the option to purchase their homes.
- Protected tenants who are considered 'squatters' are not entitled to purchase their properties at a discount.
- The discount is limited to a maximum value of 200,000 NIS (at 1997 values - approximately \$50,000). Most homes in Jaffa sell for far more than this sum.
- Many tenants are ineligible for standard mortgages.
- The purchase process is highly complex. Tenants receive no technical assistance in negotiating the complicated bureaucracy, and a non-refundable processing fee provides a strong disincentive.

We conclude that while the ILA's decision to sell the absentee ownership properties holds potential to solve problems for some of the tenants, in practice, the decision has opened a domino effect leading to evictions. The first step comes when the ILA examines the tenant's eligibility to purchase their home, and finds many to be in violation of the tenancy agreement, and issues eviction orders. The next step in the tumbling dominos comes when eligible tenants decline the option to purchase their home. The property is then placed on the market and sold to the highest bidder. The new owner becomes responsible for reaching an 'agreement' with the tenant, with no further involvement by the public sector. It seems that in many cases, tenants are forced to leave their homes.

### **3. The Municipality of Tel Aviv-Jaffa**

The Tel Aviv-Jaffa Municipality is responsible for the statutory planning process in Jaffa, and also for the welfare of its residents. The report focuses on the planning issues, and surveys the planning processes from the Ottoman era through 2009.

Our review points to two major failures in the planning process. First, between 1949 and 1992 the municipality did not allow any construction in the Ajami-Givat Aliya area. The entire area was slated for clearance, and there were no opportunities to obtain planning permits for enlarging or renovating homes. The municipality acknowledged the folly of the urban clearance

plan in the mid 1980's, and initiated a new plan (TA 2660) which was approved in 1992 and is still valid today.

The second planning failure stems from the TA 2660 plan, which focuses on historic preservation of the architecture and the fabric of the neighborhood. It limits building heights and densities, and aims to increase investment in public infrastructures. The plan succeeded in raising the value of the land and attracting a much higher income population to the area. The rise in property values has rendered AO housing unaffordable to most of the Palestinian protected tenants.

The TA 2660 plan did not include any policies to assist the Palestinian community against the expected tide of gentrification, and did not designate areas for affordable housing for the local Palestinian population. We argue that the plan's complete lack of concern for the housing needs of the Palestinian community in Jaffa constitutes a clear failure in planning policy -- a failure that should be rectified through a revision of the plan.

In contrast to the other cities in Israel with mixed populations, Jaffa is unique in having high land values. The combination of high land values and the ILA's decision to sell off absentee ownership properties leads inexorably to displacement of the low-income Palestinian community in Jaffa. Our review indicates that both the ILA and the municipality of Tel Aviv-Jaffa do not see themselves as responsible for creating the situation, and neither sees itself as having the authority to provide a solution to the problem.

#### **4. AO tenants in Jaffa and elsewhere**

We probed whether the treatment accorded to AO tenants in Jaffa was similar to that of AO tenants elsewhere in the city. We investigated two case studies of Jewish tenants in AO homes, in Kfar Shalem and in Giv'at Amal (today known as the "Akirov Towers"). Kfar Shalem and Giv'at Amal "A" were Palestinian villages until 1948. After the war, from 1948 until 1951, the government invited Jews to settle in these villages, giving them protected tenancy status in absentee ownership homes. Like Ajami in Jaffa, both Kfar Shalem and Giv'at Amal were slated for clearance, and, like Ajami, there had been little, if any, municipal investment in infrastructure over the years. As in Jaffa, many protected tenants in Kfar Shalem and Giv'at Amal were labeled 'squatters' due to illegal construction and problems of inheritance.

In Kfar Shalem and Giv'at Amal "A" the Jewish residents organized collectively to receive compensation and alternative housing options. Residents of Kfar Shalem were awarded two-story cottages dispersed among dense new high-rise apartments for incomers, while residents

of Giv'at Amal "A" agreed to evacuate in return for monetary compensation -- high enough to allow many to purchase apartments in the expensive nearby North Tel Aviv neighborhood of Bavli.

In Jaffa, on the other hand, the Palestinian protected tenants have not organized to negotiate collectively, and have not been offered compensation or alternative housing. Each tenant has been left to either face eviction or negotiate individually with the new property owner.

## 5. Recommendations

The housing problems in Jaffa are not unique. Similar problems prevail in most of the mixed cities with AO properties, as the era of tenant protections draws to an end. We recommend establishing a national multi-agency committee to investigate the problems of AO protected tenants. The committee will require authority to determine what changes in regulations are needed and to propose new legislation. It will also need funding to implement the suggested changes, on a national level. Our recommendations below are specific to Jaffa, and do not rely on a national investigative committee.

### ***5.1. Assistance for tenants looking to purchase their AO apartment***

**5.1.1. Freeze court orders for eviction and demolition:** The threat of imminent eviction and displacement must be lifted in order to establish trust and reach agreements. Trust is crucial, and lacking. To build trust, we recommend freezing all court orders for eviction and demolition.

**5.1.2. Multi-agency round table discussions:** We recommend initiating a series of round table discussions on the housing distress of the Palestinians of Jaffa. The participants of these discussions should include the Municipality of Tel Aviv-Jaffa, the Ministry of Housing and the public housing management agency, the ILA and the management body for the AO homes, the Ministry of Finance and representatives from the community. The goal of the round table is to bring together the many organizations that have both the authority and the responsibility to provide a solution to this problem. The forum should be allocated the resources to enable efficient and effective work. All agreements should be written in clear language and made accessible to the public.

**5.1.3. Recognize property purchasing rights of 'tolerated squatters':** Squatters are not eligible to purchase AO properties with a discount and without a public tender. We are not suggesting that all squatters be recognized. However, we recommend recognizing the legitimate rights of three categories of 'squatters': family members of protected tenants who remained in the property after the death of the protected tenant; tenants living on the property for more than ten years, without enforcement of the law or being required to pay the ILA; and tenants accused of squatting whose cases were judged without legal representation. We recommend that tenants within these three categories be reclassified as "tolerated squatters," and be given an additional one-time-only opportunity to purchase their properties.

**5.1.4. Re-assessment of property values:** The price and conditions of payment need to be defined not only by the market value but also by the ability of the residents to purchase the property. The extremely high land values in Jaffa – adjacent to the sea and proximity to Tel Aviv – mean that the assessed property values are far above the ability of virtually all tenants to pay, even with the current 40% discount. We recommend instituting a differential discount , and varied ceiling on the discount, across different areas of Israel

We also recommend considering a correlation between the level of the tenant discount and household characteristics, such as the duration of occupancy and household income (similar measures are used to determine the discount on purchase of public housing).

**5.1.5. Purchasing the 'squatted' sections:** In the original tenancy agreements of 60 years ago, families were allocated rooms within a flat, often sharing kitchens or bathrooms with other families. Over time, as one family moved out, another might 'occupy' the vacated space, in violation of the contract. Tenants are not currently able to purchase these 'squatted' areas, even if they have de facto been living there for many years. Tenants who request to purchase these sections through the public tender face a double penalty – any improvements they have made to the property now increase the assessed value in the tender. We recommend investigating options for discounting and purchasing the 'squatted' sections of homes, under certain conditions (for example, duration of squatting, improvement of property). We also recommend that property assessment be based on the value of the home prior to any plans for renovation and/or investments made during the time in which the tenant lived on the property, in order not penalize tenants for their often substantial investments in improving the property.



**5.1.6. Public campaign on the option to purchase homes:** All too often, tenants are unaware of the potential to purchase their homes, and do not realize that the homes will otherwise be sold on the open market. We recommend conducting a public campaign to explain the options to tenants. We also recommend administrative changes to each purchase, including cancelling the registration fee.

**5.1.7. Technical assistance in purchasing homes:** Tenants currently receive no advice or assistance in negotiating the complex process of registering to purchase their homes and taking out a mortgage. We suggest providing tenants with technical assistance, following the approach used in the Israeli Project Renewal and in the "Build Your Own Apartment" project. Technical assistance could include advice from a financial consultant; extending loans based on the income of extended families rather than just the nuclear family; providing loans backed by the state; and loans provided by philanthropic organizations and funds.

**5.1.8. Economic incentives for selling properties to protected tenants:** The Amidar management company works as the subcontractor for the DA and is paid a fee for each different action it carries out. The company receives a flat fee for selling the homes – whether to the tenant or on public tender. But selling the home to tenants is a far more complicated and time consuming process. The flat fee sets up an economic disincentive for selling the homes to tenants. We recommend changing the contract conditions, to give a significant economic incentive to Amidar for each sale of a property to a protected tenant. That way it will be in the company's interest to encourage the removal of obstacles facing protected tenants, and bolster methods of selling properties to tenants.

**5.1.9. Access to information:** Information regarding AO properties remains, for the most part, in the hands of Amidar - the managing administrator for AO properties. Without access to these files, it is impossible for the authorities in Jaffa to investigate and understand the difficulties and obstacles involved. It is also hard to identify chronic problems that require a more wide-scale solution that, hopefully, could be used in the majority of cases. Access to information would also allow authorities in Jaffa to investigate the rate of successful sales to tenants, and to analyze which apartments were bought by tenants and at what prices.

## ***5.2. Finding a solution in cases where tenants cannot afford the price of their property***

There are some cases in which purchasing the AO property is not a realistic proposition. These include households whose income is so low that they will be denied a mortgage under any conditions. A second group is those whose sources of income are so unstable that they would be at serious risk of default on any mortgage. Mortgage default in Israel, (unlike in the United States), incurs ongoing penalties even after the home has been repossessed by the bank, the defaulter remains responsible for repaying the remainder of the loan and the interest on the loan, as well as the expenses incurred in the repossession. We recommend evaluating the following three very initial directions:

- 5.2.1. Encouraging non-profit organizations** to buy, build and manage properties, including granting increased building rights in return for affordable housing rental flats for protected tenants
  
- 5.2.2. Evaluating the option of turning AO property into public housing**, where the 'squatters' are entitled to public housing but there is none available.
  
- 5.2.3. Evaluating the option of giving compensation to those who are unable to purchase properties** as was done in other regenerated areas of the city such as Kfar Shalem and Giv'at Amal.

## ***5.3. Solutions for those not living in AO properties***

The problems of affordable housing in the private market, and the problems of public housing, were not reviewed in detail in this report. However, we include some recommendations on these topics, based on past experience in finding housing solutions for the Palestinians of Jaffa and on nationally and internationally accepted tools for creating affordable housing. Implementation of these recommendations requires the cooperation of the various organizations, including: Finance and Tax Authorities, Public Housing Bureau, Planning Management of the Internal Affairs Office, the ILA, municipality of Tel Aviv-Jaffa and other relevant parties.

### ***Creating tools for affordable housing***

Jaffa needs for a unique plan for affordable housing that will be anchored in the general plan outlined for Tel Aviv. The plan should evaluate the varying needs of the community

and offer appropriate tools for expanding the amount of affordable housing available to the Palestinian community in Jaffa. We suggest investigating the following tools:

**5.3.1. Implementing government pledges** to build 400 new apartments for Palestinians in Jaffa within the framework of the project "Build Your Own Apartment". We also suggest evaluating an alternative use of this subsidy: for purchase of existing apartments rather than newly constructed housing. The alternative may be more cost effective and speedier.

**5.3.2. Affordable housing as a permitted use** of the 'closed circuit' funding agreement for Jaffa, in addition to the current permitted use in infrastructure only. The recommendation would require a change in the planning regulations.

**5.3.3. Density bonuses** in return for affordable housing units for Palestinian residents of Jaffa. We recommend identifying plots that can absorb additional density, within the urban fabric. A pilot project, on several small sites, will allow for evaluation.

**5.3.4. Preserve existing low cost housing.** The new construction in Jaffa replaces affordable housing with luxury apartments. It is important to maintain affordable housing options in this area for current and future generations.

**5.3.5. Allow for small new homes and accessory units.** The existing master plan requires a minimum house size of 90 square meters. Smaller homes, planned to allow single-unit expansion in the future, can lower the price of new home.

### ***New public housing***

The lack of public housing is a national problem. In the last decade tens of thousands of public housing units were sold to their tenants and almost no new units were built. In Arab areas almost no public housing has been built since the establishment of the state of Israel. In the 1980's, some public housing was built in Jaffa for the Palestinian population; however the units were not maintained over the years and are now in very poor condition. Many Palestinian families entitled to public housing have been waiting for years, and at the current rate will wait for many more. The subject of public housing in general, and in particular with regard to the Palestinian citizens, requires a new approach and increased efforts at all levels.

## **5.4. Additional general recommendations**

**5.4.1. Demographic analysis:** We recommend conducting in-depth research on the socio-economic situation in Jaffa and on the housing issue in particular. We do not have accurate demographic information on the population, and can not accurately evaluate the gap between household income and housing costs.

**5.4.2. Mixed uses:** We suggest permitting the small businesses that many residents (and women in particular) are currently –illicitly -- taking on in their homes. These uses include childcare, hair-salons, and catering.

**5.4.3. Sweat equity:** We recommend examining other methods of assisting tenants in renovating the buildings in which they live such as sweat equity programs.