



Submission - Public Hearing of the National Council Select Committee on the Local Authorities Amendment Bill [B. 12 – 2015]

The Institute for Public Policy Research (IPPR) welcomes the National Council's initiative in bringing this bill to the public forum for discussion and applauds the democratic spirit on display in this endeavour. We agree that it is important to ensure that Local Authorities are run in an accountable and efficient manner, and particularly welcome the provisions granting relief to vulnerable citizens. We commend the intentions behind the bill and agree that action is necessary to keep house prices affordable for Namibians. However, we believe several provisions of the bill are in fact counterproductive to this goal.

1. A Blanket Prohibition on Foreign Buyers Will Harm Namibia

Part V A of the bill (as amended in the committee stage of the National Assembly) does not allow foreigners to buy any property anywhere in Local Authority areas. This was reportedly done to counter the escalating prices for residential homes, as alluded to by the Honourable Minister when she said the bill was designed to alleviate "the hardship faced by our people in Local Authorities" in her motivational speech. However, we do not think that this Part V A will serve its intended purpose.

Firstly, it is not clear that this arrangement will help keep property prices down. The idea that high property prices are due to foreigners crowding the market has not been proven, and there is little data to suggest it is true. The high prices exist because there are not enough houses. More serviced plots and houses built will decrease competition in the market and lower prices.

In addition, prohibiting foreigners from entering the market will discourage foreign investment in Namibia. At a time when economies around the world are preparing for another recession, we cannot afford to turn down inflows of foreign capital. The National Development Plan calls for Namibia to become "the preferred investment location in Africa" in order to reduce poverty and unemployment, a goal which would be undermined by the passing of this Bill. In conversations with people active in the real estate business, grave concerns were raised about the Namibian economy if this bill passed. It is understandable that we want to limit foreign ownership of our land, but there are better ways of doing it rather than a crude, all-out ban.

For example: In Australia, there are restrictions on foreign buyers that are designed to maximise productive investment while keeping housing prices down. Foreigners have to apply to the Foreign Investment Review Board (FIRB) if they want to buy a property. If foreigners are building a new house, or proposing to build a factory, they are much more likely to get permission to buy property than if they want to buy an existing house. This has the effect that houses that are already on the market do not see their prices inflated by foreigners, while encouraging more investments and an increase in the housing supply. This also has a beneficial influence on local businesses such as construction. This sort of approach would be a smart instrument that could be used to encourage money flowing into the country without pricing out locals, and can be adjusted to fit whatever the current circumstances may be. This is greatly preferable to the blunt tool proposed in the Local

Authorities Amendment Bill which, apart from doing little to lower prices in the first place, would discourage foreign investment, too.

2. The Practice of Splitting Areas by Income Will Harm Poor Namibians.

The bill proposes that Local Authorities be split into different zones based on income, and that no-one may buy property in an income zone below their own income level. It seems the intention behind this is to prevent speculation with property in these areas and make sure that houses remain affordable.

We have two concerns with this proposed rule. The first is that the administrative burden on Local Authorities would be considerable, and we doubt that such a complex system can be implemented in practice. More pressingly, the rule would legally mandate segregation and increase inequality. Due to the recent legacy of apartheid, the distribution of wealth in Namibia is still closely linked to race. And this is reflected in the layout of our cities and towns, where wealthy areas are still mostly white and poor areas almost exclusively black. Integration has been far too slow, and this law will see it grinding to a halt. Poorer people naturally cannot move to wealthy areas (because they cannot afford living there) and wealthy people cannot move to poor areas (because the law forbids it).

This continued segregation would hurt poor people, not rich ones. As wealthy people are confined to their areas, property prices will rise as more people bid on the same small set of properties. Meanwhile, property prices in poor areas will likely stagnate due to limited inflows of capital. This will hurt people who have managed to buy properties in poor areas. It should not be forgotten that a house is the most important investment most people will make in their lives. Low-income populations will be punished under this regime; essentially prohibited from seeing their investment increase in value, while those who are already rich see their wealth increase. Inequality is already one of our most pressing issues, and this provision will not help matters.

The IPPR has argued that this Section is potentially unconstitutional, in two ways. One is that Article 16 of the Constitution grants Namibians the right to buy property “in any part of Namibia”. Restrictions are allowed for foreigners, but not specifically mentioned for Namibians.

We also argued the bill could run afoul of Article 10 which prohibits discrimination based on “economic status”. Our criticism was misunderstood: people thought we were protesting on behalf of the wealthier people who would now be barred from buying land in low-income areas, and pointed out that the constitution allows for legislation to redress the injustices of the past, regardless of Article 10. But our argument is that this bill does not redress these injustices, and that the proposed system would discriminate not against wealthy individuals, but against the previously disadvantaged that the constitution seeks to protect.

While we appreciate the intent behind the bill, we believe the measures would be counterproductive - and are also concerned about reports that Local Authorities were not consulted in drawing up this draft. We thus urge our elected representatives to begin again, consulting all stakeholders while drawing up a new bill. Perhaps regulations on foreigners, creating a foreign investment review board or similar arrangements belong in one bill, while issues regarding the governance of Local Authorities are handled in the Local Authorities Amendment Bill. Whatever form the changes take, we believe it is time to pause and re-think.

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Further reading: Local Authorities Amendment Bill: A Time to Pause and Rethink? IPPR Democracy Report Special Briefing Paper 10 (October 2015)

