

JUSTICE TOO LONG DELAYED IS JUSTICE DENIED

“For years now I have heard the word ‘Wait!’ It rings in the ear ... with piercing familiarity. This ‘Wait’ has almost always meant ‘Never.’ We must come to see, with one of our distinguished jurists, that ‘justice too long delayed is justice denied.”

- Martin Luther King Jr, “Letter from Birmingham Jail” (1963)

Last week, the [City of Cape Town](#), [Mayor Dan Plato](#) and Mayoral Committee Member for Human Settlements [Malusi Boo](#) claimed that the social movement Reclaim the City and the NGO Ndifuna Ukwazi had made it impossible for the City to deliver well-located social housing on two sites in central Cape Town. Both the Mayor and Cllr Boo paint a picture of a responsive municipality that is dedicated to the provision of affordable housing in and near urban centres, including central Cape Town.

Yet, poor and working class families (who are predominantly Black and Coloured) continue to experience an apartheid city, where access to land is reserved for a few and the local authority’s inability to address the deepening crisis of spatial inequality preserves the segregationist status quo. This is a fact confirmed in City’s application for [leave to appeal the recent Tafelberg judgment](#). In this city, the majority of Capetonians cannot afford to live in well-located areas close to economic opportunities and social amenities. In this city, many are forced to rely on state-funded housing for a place to call home, spending decades or even lifetimes on an opaque housing database awaiting access to housing. In this city, long-established communities face the threat of losing the homes they have lived in for generations because of the whims of an exclusionary property market. In this city, a housing crisis, which has been exacerbated by the COVID-19 pandemic, rages on - leaving the tenure and income insecure to bear the brunt of a societal collapse. In this apartheid city, the real impossibility is this requirement to wait for a solution from a state that, despite its insurmountable housing backlog, criminalises resilience, self-reliance and the possibility of an alternative. How can people be expected to wait, passively and indefinitely without a home?

The housing crisis: waiting for justice in an apartheid city

Over the years, Ndifuna Ukwazi has [warned](#) that those on the “waiting list” for state-subsidised or affordable rental housing have lost hope. Where public housing is built, it is invariably located on the outskirts of the city on cheaper land far from economic opportunities and amenities, and where there is public transport, the costs are high. Without a concerted effort to redistribute land closer to the city centre, apartheid spatial planning will continue to be replicated, further entrenching racialised patterns of inequality. This model of housing delivery cements the spatial mismatch between employment opportunities and residence, [creating poverty traps](#) from which the communities living on the outskirts of the city cannot escape.

The acute affordable housing shortage is a direct result of apartheid era policies and influx control limiting the African occupation of urban areas and access to economic opportunities. But the City has done little to mitigate the legacy of spatial apartheid in the 27 years since apartheid formally ended. The Western Cape has a [housing backlog](#) of just under 600 000, with more than [360 000](#) being attributable to the City of Cape Town. The City itself acknowledges that the current housing backlog is insurmountable at its current rate of delivery. In the [City’s Draft](#)

[Human Settlements Strategy](#), the City projects that it needs to create approximately 50 000 affordable homes every year for the next decade in order to address the backlog. However, the public and private sector combined develop less than 20 000 new homes on average per year, with the provision of serviced sites at 5 500 on average per year. But the supply of truly affordable housing is much less than this as most of the homes developed by the private sector are not affordable to the vast majority of Capetonians. The supply of well-located housing is even less.

The dire shortage of affordable housing stands in stark contrast to the oversupply of exclusive accommodation. The average sale price for a home in Cape Town in 2019 was the highest in the country at [R1 513 254](#) and [41% of the Cape Town residential property market is aimed at developing luxury properties valued at over R1.2 million](#). Many working Capetonians cannot reasonably afford to buy a home in the City due to [‘stratospheric’ prices](#) indicative of a market failure that is fuelled by rampant speculation. Yet, the City refuses to regulate the private property market to ensure a more spatially just city despite having a slew of legal and regulatory tools at its disposal. In fact, the City’s policies and practices have negated the principle of spatial justice and its tenets of redress, inclusion and tenure security, actively denying what urbanist [Edward Soja](#) has described as a ‘fair and equitable distribution in space of socially valued resources and the opportunities to use them.’

Over the past few years, we have alerted the public to the City’s ongoing disposal of valuable public land needed for providing housing solutions in central Cape Town and surrounds. We have highlighted how the City has shirked its legislative duty not to dispose of parcels of municipally owned land that are needed to provide the minimum level of basic municipal services which includes housing but are currently [leased for exclusive uses](#) (such as [golf courses](#) and [bowling greens](#)). We have raised the alarm when valuable public land was not only sold off - forfeiting well located housing opportunities - but also undersold - robbing the public of funds allegedly reserved for service delivery in disadvantaged communities.

In addition, we have consistently applied pressure for the City to account to citizens about the many well-located affordable housing developments that have failed to materialise. Cape Town office bearers have made countless public promises to develop affordable or social housing in and around the CBD. The more recent of these unfulfilled [commitments was announced in late 2017](#) for the development of affordable and inclusionary housing opportunities on 11 publicly--owned sites in the Salt River, Woodstock, and inner-city precinct. The City estimated that approximately 4 000 families with a monthly income of between R3 501 and R15 000 would move into those units upon completion. In almost four years since the launch of the prospectus for affordable housing, only the Pickwick transitional housing project, housing 19 families, has been completed. The City has since withdrawn the prospectus for affordable housing on these sites and [even leased out](#) one of these properties for three years to a private developer.

Political machinations versus a demonstrated alternative

While the [Centre for Social Science Research](#) writes that “tensions around housing delivery processes are almost inevitable”, the City’s polarisation and villainisation of the very people it is constitutionally obliged to serve is deeply inappropriate. As is the City’s use of disproportionate force or unsubstantiated claims of criminalisation that tars all occupiers without consideration of the relevant circumstances. Where the City sees land invaders, we see and support people trying to survive in an increasingly unequal society. This is by no means a “laissez-faire” approach to unlawful occupations as the City suggests, but a far more nuanced approach that considers historical and socio-economic complexities, is responsive to heightened vulnerabilities and, most importantly, centres on the dignity of those living in occupied buildings.

In their recent statements, both Mayor Dan Plato and Cllr Booie have claimed that Ndifuna Ukwazi's "toxic legacy" of "organised land invasions is the biggest obstacle to social housing sites in central Cape Town". Not only is this claim absurd and untrue, it is a direct attempt to blame-shift and obfuscate.

In fact, Ndifuna Ukwazi's work seeks to achieve the opposite of what Plato and Booie have claimed. Over the past 5 years, our work has provoked a city-wide conversation about spatial justice based on access to land and housing that did not exist when we started. Our work has contributed to successfully stopping the sale of strategically located parcels of public land and securing commitments to building affordable housing on further parcels of public land. Our work has enabled the voices of housing activists to be heard in the city. Our work has even secured commitments to build affordable housing in private developments following our efforts to regulate the private sector to deliver inclusionary housing.

Reclaim the City's Cissie Gool and Ahmed Kathrada Houses reveal an opportunity as well as a need. These occupations present an opportunity to seriously review and redevelop vacant, derelict and underutilised buildings and spaces in the city, particularly central Cape Town and surrounds, for social benefit through the provision of community-led housing opportunities. Such redevelopment would address the need by many in these areas facing displacement or prohibitively high barriers to accessing housing close to employment and amenities.

Notably, the [City's Draft Human Settlements Strategy](#) embraces the use of infill sites, stating that particular focus will be on 'infill project delivery; targeting unutilised parcels (such as old school sites), the consolidation of multiple sites, and underutilised greenfield sites.' To this end, 'the City must review its land holdings, targeting unutilised public open spaces... These land holdings should be released (accompanied by proactive land-use rights) to willing micro-developers as sites for the development of infill affordable housing.'

Instead of pursuing collaborative opportunities created by these houses as a lived community-led alternative, it is unfortunate that the City opts to vilify those who find themselves in untenable situations under the guise of defending property rights, with the effect of polarising an already deeply divided society. Creating a false dichotomy between '[law abiding residents](#)' and those whose desperate situations cannot wait for decades to come is disingenuous and presents a live threat to social cohesion in a highly racialised and deeply unequal society. The alternative accommodation that the City has offered to people at risk of homelessness has been in Transitional Relocation Areas (TRAs) that are predominantly at capacity with a current waiting period of around 4 months before one can access shelter in these often far-removed areas. To this end, many law abiding residents have been [waiting patiently on the waiting lists, with some dying before ever accessing a dignified home](#).

The City's claims are also dismissive of the evolution and agency of Reclaim the City as a social movement, its members, and the families who have built communities in the occupied buildings. To be clear, while Reclaim the City once referred to a campaign launched by Ndifuna Ukwazi and individual activists advocating for the use of well-located public land for affordable housing, it has since 2016 organically grown into an independent social movement. Campaign events brought together many poor working class people facing the same struggle for well-located affordable housing who then formed a social movement adopting the campaign name - a social movement with its own constitution (which the City itself alludes to), its own community-driven initiatives including feeding schemes and community gardens, and its own democratically-elected leadership. The City is well aware of this and the persistent mischaracterisation of Reclaim the City by Mr Booie as a "[Ndifuna Ukwazi co-ordinated campaign group](#)" is thus an intentional attempt to mislead.

These tactics are not uncommon, particularly in the context of a defensive City that has failed to appropriately respond to the deepening housing crisis, especially in an election year. But, what residents of this city sorely need is a different, solutions driven and values-based approach. This is our primary objective. The City's insistence on

shifting blame and targeting human rights defenders and housing activists without critically evaluating its role in a housing crisis prevents all affected parties, including the City, from arriving at equitable, feasible and just solutions.

The possibility of a just outcome in an unequal society requires imagination, thoughtfulness, and a centering of human dignity. It is our hope that the City will make the shift from claiming "impossibility", and instead support calls for meaningful engagement on demonstrated, just alternatives in response to the challenges posed by the housing crisis.

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