

GUIDE FOR SOCIAL HOUSING LANDLORDS

APPROACHING MUNICIPALITIES FOR RELIEF OF
PROPERTY RATES

2024



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1 Introduction

Navigating the complexities of social housing amidst economic challenges requires strategic collaboration between Social Housing Landlords (SHLs)¹ and local municipalities. One significant avenue for support is the relief of property rates, which can alleviate financial burdens and enable landlords to sustainably manage their properties. However, engaging with municipalities for such relief demands a nuanced approach that encompasses legal frameworks, bureaucratic procedures, and effective communication strategies.

This guide serves as a comprehensive resource for SHLs seeking relief of property rates from municipalities. It outlines key considerations, step-by-step processes, and best practices for initiating and navigating discussions with local authorities. By providing clarity on the intricacies of this process, landlords can empower themselves to effectively advocate for their interests while contributing to the broader goal of enhancing social housing stability and affordability.

Through proactive engagement and informed decision-making, landlords can leverage municipal resources to ensure the long-term viability and impact of their social housing initiatives. This guide aims to equip landlords with the knowledge and tools necessary to navigate the complexities of approaching municipalities for relief of property rates, ultimately fostering stronger partnerships between public and private stakeholders in the pursuit of equitable housing solutions.

2 Legislative Background

2.1 Constitution

The South African Constitution, adopted in 1996, serves as the supreme law of the land, laying the foundation for the country's democratic governance and protection of fundamental rights. One of its critical aspects is the promotion of social justice and equitable access to resources for all citizens. In the context of property rates reductions for Social Housing Landlords, several constitutional principles come into play, particularly those related to socio-economic rights and local governance.

Section 26 of the South African Constitution enshrines the right to adequate housing, emphasising the state's obligation to progressively realise this right for all citizens. This provision forms the basis for various policies and legislative frameworks aimed at addressing housing challenges, including those related to affordability and accessibility. Social housing, which targets low-income households, plays a crucial role in fulfilling this constitutional mandate by providing affordable rental accommodation.

¹ These are Social Housing Institutions (SHIs) and Other Delivery Agents (ODAs).

2.2 Municipal Systems Act, 32 of 2000 (MSA)

The Municipal Systems Act stands as a pillar of pro-poor governance, embodying principles aimed at promoting equitable development within communities. Enacted with the explicit intention of redressing historical imbalances, it mandates local governments to prioritise the needs of marginalised populations, ensuring their inclusion in decision-making processes and resource allocation.

The Municipal Systems Act **defines the legal nature of municipalities as part of a system of co-operative government**. It also clarifies the rights and duties of the municipal council, local communities, and the municipal administration.

The MSA is an integral part of a suite of legislation that gives effect to the system of local government and include the following:

- Provide basic services to all people
- Municipalities must be developmental
- Move towards the social and economic upliftment communities
- Active engagement of communities, in particular in planning, service delivery and performance management
- Efficient, effective and transparent local government
- Financially and economically viable municipalities

2.3 Municipal Property Rates Act, 6 of 2004, as amended (MPRA)

2.3.1 Background²

Section 229(1) of the Constitution grants municipalities income-generating power and section 4 (1) of the Municipal Systems Act, No. 32 of 2000 allows for the right to finance their affairs by imposing, inter alia, property rates.

The White Paper on Local Government, 1998 provided the following basic principles on property rates:

- Revenue adequacy and certainty;
- Sustainability;
- Effective and efficient resource use;
- Accountability, transparency and good governance;
- Responsibility and accountability to local taxpayers for the use of public funds;
- Equity and redistribution;
- Equitable treatment regarding the provision of services;

² Practical Guide on Municipal Property Rates p11-12

- Development and investment; and
- Macroeconomic management.

This white paper was the founding document for the MPRA. The MPRA came into effect on 2 July 2005 and was amended in 2008, 2009 and 2015.

The purpose of the MPRA is -

- to regulate the power of a municipality -
 - to impose rates on property;
 - to exclude certain properties from rating in the national interest;
 - to make provision for municipalities to implement through their rating policies a transparent and fair system of:
 - Exemption;
 - Reduction; and
 - Rebate.
- to make provision for fair and equitable valuation methods of properties;
- to make provision for an objection and appeal process;
- to amend the Local Government Municipal Systems Act, 2000, to make further provision for the serving of documents by municipalities to amend or repeal certain legislation; and
- and to provide for matters connected therewith.

Municipal Property Rates Regulations on the Rate Ratios between Residential and Non-Residential Properties, 2009, as amended.

Section 83 of the MPRA allows the Minister to make regulations³ &⁴ on matters that may be prescribed in terms of the MPRA.

The Amended Municipal Property Rates Regulations on the Rate Ratios between Residential and Non-Residential Properties, 2009 provides for a rates ratio for Public Benefit Organisation Property (PBOP) of 1:0.25.

A PBOP is defined as *“Property owned by public benefit organisation and used for any specified public benefit activity listed in Item 1 (welfare & humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act.”*

³ Regulations are a form of secondary law created by the Minister

⁴ Regulations are specific sets of rules and requirements created by a government agency, the Minister, to enforce provisions of an act

This definition in the regulations therefore excludes Item/activity 4 of part 1 of the Ninth Schedule to the Income Tax Act that relates to “Land & housing,” an activity that some of the social housing landlords may have previously attained PBO status with SARS on. By implication, Social Housing Properties⁵ are therefore excluded.

If Social Housing activity is included as PBOPs in the ratio regulation it will ensure that all SHLs with PBO status may automatically be levied at a rates ratio of no more than 1:0.25 if the Minister of Finance increases the household income threshold to accommodate most low to medium income households earning R15 000 or below.

2.3.2 Categories

Municipalities may levy different rates for different categories of rateable property in terms of section 8 of the MPRA. All rateable property must be classified in a category and will be rated based on the category of the property as it appears in the valuation roll. The different categories of properties must be listed and defined in the rates policy.

The categories listed in section 8 are compulsory.

Provided that such property category exists within the municipal jurisdiction, a municipality must determine the following categories of rateable property based on the actual or permitted use of a property⁶:

- Residential properties;
- Industrial properties;
- Business and commercial properties;
- Agricultural properties;
- Mining properties;
- Properties owned by an organ of state and used for public service purposes;
- Public service infrastructure properties;
- Properties owned by public benefit organisations and used for specified public benefit activities;
- Properties used for multiple purposes; and

⁵ NASHO should approach the Minister and request that Social Housing be included in this regulation as PBOPs.

⁶ Section 8(2) of the MPRA

- Any other category of property as may be determined by the Minister, with the concurrence of the Minister of Finance, by Notice in the Gazette.

Social Housing properties will typically be categorised as “Residential properties” and rates will be levied at the tariff for residential properties.

Social Housing is considered to be a sub-category of residential properties. Section 8(4)(a) of the MPRA requires that municipalities must apply to the Minister⁷ for approval to create a sub-category. This process of application by municipalities to the Minister responsible for local government can take a minimum of 15 months and the outcomes are solely at the discretion of the Minister.

The municipality may then determine a tariff for a new sub-category. For social housing properties to benefit from a new sub-category the tariff should be lower than the tariff for residential properties.

The tariffs are considered annually and the ratio to the residential tariff is not cast in stone.

SHLs will have to lobby with the municipality to create this sub-category and also ensure that the rates ratio is favourable.

2.3.3 Relief measures (Exemptions, rebates, and reductions)

Section 15 of the MPRA allows municipalities to:

- Exempt a specific category of owners of property or the owners of a specific category of property free payment of property rates; or
- Grant a specific category of owners of properties or the owners of a specific category of property a rebate or a reduction in the property rates payable.

The criteria for the relief measures are set out in the rates policy. The quantum of the relief for rebates and reductions is often not included in the rates policy but will be part of the property rates tariffs in the budget.

No relief may be granted if it is not provided for in the rates policy.

⁷ The Minister responsible for local government.

The relief measures are subject to the annual review of the rates policy and there is no guarantee that it will be retained or that the level of relief will not be adjusted (reduced).

The occupants of Social Housing are generally excluded from relief to indigent citizens because they do not own the property.

2.3.3.1 Exemptions

MPRA definition: “exemption”, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15.

Exemptions are the freedom or release of the owner from the liability to make a compulsory payment that would otherwise be imposed by a municipality. Every municipality has the right to determine which owners do not have to pay rates and this is done by way of section 15 of the MPRA and must be described in the rates policy.

Exemptions must not be confused with the impermissible rates (exclusions) described in section 17 of the MPRA. Exclusions are a restriction of the rating power of municipalities imposed by the MPRA while exemptions are under the control of the municipality. Exclusions apply to all municipalities and refer to properties that may not be rated and are listed in section 17(1) of the MPRA . Properties excluded from rating could also be described as non-rateable properties.

2.3.3.2 Rates rebates

MPRA definition: “rebate”, in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;

A discount is granted on the rates payable on a specific category of property owners, or the owners of a specific category of properties, in respect of their properties.

The rebate is usually expressed as a percentage e.g. Residential properties may receive a rebate of 10%.

Table 1: Examples of rebates

Municipality	Rebate
Ekurhuleni	Pensioners could receive a rebate between 40% and 100%, depending on their income
eThekweni	Life right schemes & Retirement Villages – 25%

Municipality	Rebate
Johannesburg	Residential – High density – 5% Housing Development Schemes for Retired Persons – 50% Corridors of freedom – During construction – 75% (maximum of 2 years) Corridors of freedom – Post Construction – 50% (Maximum of 1 year)

2.3.3.3 Reductions

MPRA definition: “reduction”, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount.

The lowering of the amount for which the property was valued, and the rating of the property is at the lower value/amount.

The lower amount/value is often referred to as the rateable value.

The most common example of a reduction is for residential properties, which range from as little as R2 000 to R335 000 for different municipalities.

In terms of section 17(1)(h) of the MPRA the first R15 000 of the market value of residential properties is excluded from property rates. This means that the rateable value of Social Housing properties must be reduced by R15 000 plus any additional reduction provided for in the rates policy of that municipality. Table 2: Examples of Reductions on residential properties

Municipality	Reduction
Cape Town	R435 000
Ekurhuleni	R135 000
eThekwini	R105 000
Johannesburg	R285 000
Mangaung	R85 000
Tshwane	R135 000

3 What could SHLs lobby for?

Every municipality in South Africa had to adopt a rates policy which came into effect on the effective date of the first valuation roll that was prepared in terms of the MPRA.

The rates policy must be reviewed annually. The revision of the policy forms part of the annual budget process.⁸

The purpose of a rates policy is inter alia to determine -

- categories of properties for purposes of differential rating (different rates tariffs); and
- relief measures (exemptions, rebates, and reductions).

SHLs could lobby/request during public participation on the draft budget for relief or special treatment of social housing properties.

3.1 New Social Housing Category

Paragraph 2.3.3 of the guide outlined the compulsory property categories for differential rating and how municipalities can apply for a sub-category to rate social housing at a rate less than the other residential properties. It is therefore legally possible for social housing landlords to lobby their respective municipalities for a new social housing sub-category for inclusion in the rates policy.

Social Housing landlords, favouring this approach, should carefully consider the long lead time, and processes involved.

- i. Step 1: Social Housing Landlord lobbies the municipality to for new rates sub category with a rates ratio/tariff lower than other residential properties.
- ii. Step 2: Once successfully lobbied, the municipality must submit an application to the Minister of Local Government, who has 15 months to respond.
- iii. Given the possible and likely lead time, step 1 and step 2 might take over 20 months for completion.

Notwithstanding, the risks outlined above, this process is possible and NASHO and its members in the Western Cape have previously successfully lobbied with the City of Cape Town for better rates and taxes, and utilities package for social housing landlords. The City of Cape Town has a new category for Social Housing Properties and a rate ratio of 1,0:0,25. See example of City of Cape Town in section 4.

⁸ MPRA section 3 & 5.

3.2 Relief measures

TIP: Municipalities are required to reflect all exemptions, rebates, and reductions in the municipalities budget⁹. For this reason, it is important for Social Housing Landlords to be able to estimate the number of affected properties or social housing landlords, in that financial year, and quantify the approximate loss of income due to exemptions, rebates, and reductions.

It is recommended that if Social Housing Landlords lobby for a reduction, they should start the process before the draft budget and rates policy is tabled during March. It is advisable to approach councillors and the members of the mayoral committee to gain political support. The chief financial officer (CFO) and the members of the budget committee should also be approached.

3.2.1 Exemptions

None of the 8 metropolitan municipalities (metros) provide for the exemption of property rates for social housing.

Some provide for a 100% rebate for indigents. The Nelson Mandela metro will exempt PBOs or NGOs of benevolent organisations.

SHIs and ODAs that are PBOs, or NGOs may be able to motivate for the exemption from the payment of property rates. There is little chance of success for the SHIs and ODAs that are not PBOs or NGOs.

3.2.2 Reductions

Relief by way of reduction is most used on residential properties.

Because a reduction reduces the value by a fixed amount it is not a viable option for social housing.

3.2.3 Rebates

Properties used for social housing are subject to the "rules and regulations" of the Social Housing Act. The requirement that gross rentals may not exceed 33,3% of the monthly household income and must cover operating costs restricts the potential income of a property used for social housing.

The prescribed target rentals linked to the income spread is a further limitation on the potential income.

The target rentals in regulation 35 and the spread recommended by SHRA are shown in Table 3.

⁹ MPRA 15(4).

Table 3: Target rentals in regulation 35 and the spread recommended by SHRA

Lower Band	Upper Band	Income Spread*	Rent Quote**
R1 850	R3 500	5%	27%
R3 501	R6 700	25%	29%
R6 701	R11 300	25%	31%
R11 301	R15 000	30%	33%
R15 001	R22 000	15%	35%

Social housing is a risky business as it is subject to the following negative factors:

- Title Deed restrictions
- Restriction in income
- Good standing of tenants
- Rental boycott and hijacking

These properties should not be treated the same as other residential properties and a rebate of between 20% to 40% should be considered.

4 Examples of successful Lobbying by NASHO

4.1 Rates Rebates (City of Johannesburg)

Between 2022 – 2023 NASHO with its members in Johannesburg lobbied for rates rebate for social housing in Johannesburg. The result of this, was the approval of 40% rates rebate for Social Housing Landlords from 2023/2024.

The Rates Policy 2023/2024 of the City of Johannesburg (CoJ) provides relief for “Registered Social Landlords”.

Extract from the policy:

(11) Registered Social Landlords

- (a) The category comprises properties owned by individuals or entities designated as Registered Social Landlords.
- (b) The requirements are as follows: The property must comply with the conditions contained in the Social Housing Act (No.16 of 2008).
- (c) The rebate is as follows:
 - (i) 40% of the current monthly rates
 - (ii) If a Public Benefit Organisation, registered as a non-profit organisation in terms of Section 30 of the Income Tax Act, provides services on a property which meet the requirements of welfare and humanitarian services as defined in the Schedule of the Act and is designated as a registered social landlord, the rate applicable to a Public Benefit Organisation shall apply.

The requirement is that *“The property must comply with the condition contained in the Social Housing Act (No. 16 of 2008)”*.

SHLs must apply for the rebate on the form prescribed by CoJ.

4.2 Rates Category (City of Cape Town)

The City of Cape Town included a social housing sub-category in its rates policy. This enables the City of Cape Town to have a different and lower rate ratio for social housing properties.

The rates ratio for these properties is 1:0.25 which means that the tariff is 25% of the tariff that applies to other Residential Properties.

The Cape Town Rates Policy 2023/2024 includes the following:

Definition:

“Social Housing” means a property provided by social housing institutions or other delivery agents in SHRA approved projects used for a rental or co-operative housing option as defined in the Social Housing Act, for households earning between R1 850,00 - R22 000,00 per month and which is used by the tenants as their primary place of residence;

Determination of the rates ratio:

5.15. Properties owned by a SHRA-accredited Social Housing Institutions or accredited Other Delivery Agents (ODA's) and used for social housing

The City recognises the important role that SHRA accredited Social Housing Institutions and accredited ODA's play in the social and economic well-being of the communities that they operate in. In line with the strategic IDP priorities of a safe and caring city a reduced rates burden assists these institutions and agents in meeting their objectives.

Non-Residential Properties of such institutions and agents do not fall within this category.

The City determines the rates ratio for these properties at a rates ratio of 1:0.25

The following documentation must be supplied annually:

- Company accreditation certificate from the SHRA
- Letter from the SHRA confirming that:
 1. the Project is accredited and under regulation and evaluated on a quarterly basis;
 2. the property contains an appropriate income group spread.

5 Timelines

Section 21 of the MFMA¹⁰ provides for the budget process.

The mayor must coordinate the process for the preparation of the budget and the reviewing of the Integrated Development Plan (IDP) and budget-related policies.

Ten months before the start of the budget year (before 31 August) a schedule of key deadlines must be tabled.

The draft budget, which must include the draft rates policy and property rates tariffs, must be tabled at least 90 days before the start of the budget year. This means that the draft budget must be tabled at the last meeting of the Council in March.

The accounting officer must immediately (on the same day the draft documents were tabled) post the budget, revised IDP and all related documents on the website of the municipality. The public participation

¹⁰ Municipal Finance Management Act 56 of 2003, as amended.

process includes invites to the local community and stakeholders to make written submissions or make representations at public meetings.

The period for public participation is at least 30 days which means that the public meetings will be scheduled in April and the deadline for submissions is towards the end of April or the first week in May.

The MFMA requires that the Council must consider the budget at least 30 days before the start of the budget year and that the budget must be approved by the 30th of June.

SHIs could engage any time with municipalities informally to discuss property rates-related matters. Formal engagement is during the public participation process at public meetings or the submission of written comments.

5. Lobbying City of Johannesburg – A case study

In May 2023, NASHO submitted comments on the City of Johannesburg's Rates Policy to advocate for a rate rebate for SHIs operating in the metro. These comments were a strategic effort to draw attention to the unique nature and purpose of SHIs as non-profit entities primarily dedicated to public benefit activities.

The key points raised in these comments highlighted that SHIs' primary activities in line with Section 30, Ninth Schedule Part 1 subsection 4 "Land & Housing" focus on *"The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income is equal to or less than R15 000 or any greater amount determined by the Minister of Finance by notice in the Gazette after consultation with the Minister of Housing."*

Despite SHIs efforts and contribution to the social, economic, and spatial transformation of the City of Johannesburg, they were not fully recognised as Social Landlords per the Social Landlord Policy of the City. Consequently, SHIs still pay normal and sometimes high rates and taxes (like any other private landlord undertaking commercial activities with a profit motive) even though SHIs deliver a government-subsidised rental programme to the city's needy households.

In response to these pressing concerns, NASHO strongly advocated for the City to acknowledge the substantial contributions and unique positioning of SHIs within the Rates Policy framework. The plea emphasised the need for a relief mechanism to rectify this disparity, proposing viable solutions to integrate SHIs within the policy framework to ensure fair treatment.

As a result of these efforts, the City positively responded to the request and incorporated one of the proposed relief mechanisms into the Rates Policy 2023/2024, signifying a significant step towards acknowledging and supporting the invaluable role of SHIs in serving the community's housing needs.

Effective July 2023, social housing landlords in the City of Johannesburg are now eligible for a 40% rebate on their rates and taxes.

If you need assistance with the application process, please do not hesitate to contact NASHO.

The qualification criteria are included in the extract from the new Rates Policy below:

In order to be categorised as Properties owned by an SHRA-accredited Social Housing Institution and used for social housing, application for a change in property rating category must be made and the following information/documentation must be provided: Latest financial statements; Proof of SHRA accreditation; Copy of each tenant's lease agreement; and Tenant information and income captured in an excel spreadsheet containing the following information: Name of housing development Erf/unit number, Suburb or scheme name, Account number if applicable, Tenant's name and surname, Tenant's ID number; and proof of tenant's income; tenant's contact details including cell/tel. number and email address.

Our strategy for lobbying for reduced rates and taxes for social housing landlords in the country includes advocacy at a National Level and also engaging with local municipalities directly. In 2024, NASHO will be developing a quick guide and toolkit for Social Housing Landlords to use in engaging and negotiating with municipalities for reduced rates and taxes.

6. Thank You

This Guide was made possible with the generous support of the FAWW Grant Funding and Mr Harmen Oostra, with technical consultant Mr Ben Espach from Rates Watch (Pty) Ltd.

7. Supporting Documents

a. Legislation & Acts

- i. South Africa's Constitution
- ii. Municipal Systems Act
- iii. Municipal Property Rates Act
- iv. Municipal Finance Management Act

b. Rates Policies

- i. City of Cape Town – special rating category
- ii. City of Johannesburg – rates rebates

8. References

- Ackerman, M., Espach, B.J & Viviers, A.M. 2022. Practical Guide on Municipal Rates. Pretoria: Self
- City of Cape Town. 2023. Rates Policy 2023/2024.
- City of Johannesburg. 2023. Draft Rates Policy 2023/2024.