



THE PROFESSIONAL CENTRE
SLIEMA ROAD
GZIRA GZR 1633 - MALTA
TEL./FAX. (+356) 2131 4265
EMAIL: info@kamrataperiti.org
WEBSITE: www.kamrataperiti.org

K A M R A T A L - P E R I T I

To support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community

Feedback on the White Paper:

Renting as a Housing Alternative

Introduction

The Kamra tal-Periti would like to firstly congratulate the Hon. Parliamentary Secretary Roderick Galdes and his research team on the quality and thoroughness of the consultation process. This commendable effort should be set as a benchmark and a best-practice example for public consultation processes undertaken by other public entities in the future.

The White Paper is, in our opinion, a well-researched and well-founded document. It properly identifies the problems with the rental market in Malta, and sets out a strategy to tackle these problems whilst keeping a balance between the interests of landlords and tenants. The impact of the current rental/housing crisis is clearly and frankly outlined. The White Paper argues that the causes for the rental crisis lie both in the “burgeoning economy” but also in changing household composition.

The White Paper quotes an increase in “family breakdowns” and “single individuals”, as one of the primary causes. However, the analysis of the quoted statistics shows that this trend, although significant, is of the same order of magnitude as the number of applicants under the IIP, and many orders of magnitude lower than the impact of the rapid expansion of foreign labour.

Nevertheless, the range of proposals outlined in the White Paper appear to have been carefully crafted to address current issues, without heavily intervening in market forces. This is commendable since heavy market intervention has proven unsuccessful in the past, in Malta and elsewhere. It remains to be seen whether the proposals will be sufficient to correct the current crises.

Rent Subsidy

Whilst the White Paper outlines mechanisms to control rent increases, and the terms for rental agreements, one of the potential weaknesses is the issue of the initial rental. Both proposed frameworks shy away from controlling initial rents in any way. The White Paper “acknowledges” that rents should reflect market values; this can, however, become a circular argument, since market values in fact reflect the rental potential.

The White Paper suggests that the problem of the initial rent for low-income households could be mitigated through the strengthening of the rental subsidy

scheme governed by the Housing Authority. The Kamra believes that this should be converted to a housing allowance, similar to the British housing benefit, that would be based on household means-testing. The housing allowance would help overcome the difficulties faced by low-income earners when competing with the medium- to high-income earners that joined the rental market in recent years, as confirmed in the first section of the White Paper.

Nevertheless, there is a very high risk that increasing liquidity in the rental market, through the rental subsidy, coupled with sustained population growth, would result in further inflationary pressures, resulting in the spiralling of the housing crisis. To avert this, Government must inevitably keep a close eye on initial rental prices, and consider mechanisms such as rent controlled areas, similar to those found in the United States, or the introduction of rent-controlled units in medium- to large-scale developments as planning gain measures in the development permitting process.

It is acknowledged that Government will face considerable opposition from market actors to make these types of market interventions; but government must also be careful not to allow the voices of the strong actors in the market to drown the voices of the weaker ones.

Rent Terms

The White Paper outlines the situations when the landlord may wish to withdraw from a rental agreement in the case of a mandatory term exceeding one year. One of the cases where this would be considered as legitimate includes the situation when the landlord intends to sell the property with vacant possession. Whilst it is acknowledged that such, bona fide, situations may arise, it is important to ensure that this does not give rise to abuse, since the objectives of the proposed regulation may then be completely circumvented. It is further noted that selling tenanted properties can offer investment advantages to property investment companies. Possible fiscal incentives could be introduced to curb evictions in such circumstances.

The White Paper also excludes leases that were negotiated prior to 1995. The White Paper does not include an analysis of the problems that have arisen in the past with these leases. The current situation of potential injustice seems to have been ignored, even if recent court decisions have emphasized the intrinsic unfairness of many such situations.

Affordable Housing

The White Paper argues that “the ultimate solution to the rental problem lies in a stronger supply of affordable housing”. However, as the White Paper acknowledges, the issues of supply and demand should not be dealt with simplistically. The emphasis should be on the term “affordable” rather than on the “stronger supply”. The reference to the diversification of the market, to a “third sector” of housing provision, using innovative housing foundations or associations, or Public-Private Partnerships, is very important. However, there is very little detail on how affordable housing aims can be achieved, and what the minimum targets are.

While the introduction of Real Estate Investment Trusts (REITs) is long overdue, the White Paper does not suggest how they can contribute to facilitating housing affordability. REITs are very important instruments in real estate investment finance, that have transformed the property development and real estate sectors in those countries where they were introduced, since they reduced investment gearing, development risk, reliance on banks, and investment cost through little to no taxation. The assumption that reduced costs would result in reduced prices, however, appears to be over-optimistic. One possible way of linking the introduction of REITs with housing affordability is to link the MFSA license, which would provide significant fiscal benefits, with a contractual obligation to secure a proportion of the trusts’ property portfolio for affordable housing and/or rent controlled accommodation.

The White Paper states that “[t]hroughout the course of this study it has emerged very clearly that more reliance on private supply has failed”. The problem with this statement, however, is that the failure is primarily a result of the passivity of the State in exercising this resource. Indeed, one of the main lacunae in the White Paper is the complete absence of the role of urban planning in addressing the housing crisis. It is the Kamra’s considered view that measures should be introduced to create affordable housing through the planning gain instrument. The costs of such a measure on the private sector could be recovered by eliminating the unsustainable and regressive imposition of minimum parking requirements and the Commuted Parking Payment Scheme on new developments.

In the discussion on affordable rents, the term “social housing” has been mixed up with the term “affordable housing”. The two are not the same. Affordable housing is open to a wider range of income groups, and not only to those citizens who have more acute socio-economic problems. One could consider that the concept of “affordable” housing as going beyond rentals, into ownership. On the other hand, in the Kamra’s opinion, social housing should not be seen as a permanent solution

for this category of citizens, but a temporary one. It follows that schemes for people to buy out their allocated “social” housing should be discontinued, since this effectively diminishes Government’s social housing stock, and, as has happened in the past, effectively allows people to profit off public resources.

Habitability & Quality

It is also important that a minimum habitability or quality standard, similar to the British Decent Home Standard be introduced as quickly as possible. The current crisis is not only due to high rental values of housing, but also the poor quality of the supply. A minimum habitability or quality standard coupled with the introduction of a comprehensive suite of building regulation, as envisaged in the White Paper on the Building and Construction Authority recently published by MTIP, will contribute significantly to the improvement in the quality of the housing stock.

Non-discrimination

There needs to be a greater emphasis on the curbing of discriminatory practices in the rental market. Discrimination against minorities and socially disadvantaged members of society, including low-income earners, should be strongly penalised.

Rent Agency

The White Paper envisages the setting up of a new agency for the regulation and oversight of the PRS. The Kamra acknowledges that it is important that a system of, possibly compulsory, registration of contracts of leases. It is however sceptical about the proliferation of new regulatory bodies that only serve to increase the complexity of the property market. Rather than setting up a new agency, the Kamra believes that the Housing Authority should be thoroughly reformed such that the regulation of the housing sector becomes its primary function. Despite its name, the HA today is not really an authority as it does not regulate anything, unlike other real authorities. The administration and operation of its social housing stock should not distract the HA from its potential role as a regulator of the entire housing spectrum.

The White Paper also discusses the role of the Rent Regulation Board, pointing at the limited use the public makes of it. A number of measures could be introduced to overcome this:

1. Increase awareness about its existence, and make it more accessible, both physically and electronically;
2. Simplify the procedure by eliminating the need for legal representation, thereby making it more affordable for low-income earners;
3. Introduce mediation services through the Housing Authority, similar to those provided by the MCCA in consumer rights disputes;
4. Simplify eviction processes.

Conclusion

In conclusion, the Kamra tal-Periti considers the White Paper as a positive document which, on the basis of detailed research, proposes a number of regulatory mechanisms to address the current housing crisis. The proposed mechanisms now have to be fine-tuned and embraced by the political leadership.