

MINISTRY OF WATER & HOUSING
JOINT VENTURE HOUSING POLICY

GUIDELINES

The following guidelines will be applied to all Joint Venture and Private Sector Facilitation partnerships where the Ministry of Housing functions in the capacity of enabler or facilitator of a housing development.

A. ROLE OF THE JOINT-VENTURE PARTNER

A.1 Planning

- 1) The partner must consider the environmental impact in planning and integrate the environmental impact assessment into the project cycle at all stages of project development.
- 2) The partner must use appropriate technology and housing typology to ensure maximum safety in the event of natural disasters such as hurricanes and earthquakes.
- 3) The partner must observe safety guidelines and building codes approved by the Jamaica Bureau of Standards and the approval agencies.
- 4) The partner must promote harmonious ecologically sound practices by applying and integrating water and energy efficient and environmentally friendly technologies, for example, low-volume water closets, motion detecting faucets, energy-efficient lighting and other devices, such as solar energy technologies.
- 5) The partner must ensure that copies of a properly designed plan are prepared and submitted. These should include: lay-out with respect to density, active and passive green spaces, social services, water supply, sewage, road, light, drainage, demographic and socio-cultural considerations. The plan should also satisfy spatial, social, environmental and economic needs.
- 6) The partner must commit to the formation of a sustainable community by measures including but not limited to provision of street signs and lighting, active community facilities/space showing consideration to play areas and day care, community, health, social and commercial centres.
- 7) The partner must develop and landscape social and physical infrastructure such as recreational/community facilities and roadways as part of the project implementation and hand them over to the community or other relevant authorities at the specified time.

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- 8) The partner must ensure that all the support services/infrastructure are put in place at the same time that the residential units are constructed so that the needs of the purchasers are met as soon as they occupy the units.
- 9) The partner will be responsible and liable for all infrastructure works, as defined by the relevant agencies, within the Defects Liability Period of six (6) months for houses and twelve (12) months for general infrastructure, and the interim period prior to the handing over of the project to the relevant authorities. The Parish Council/KSAC should be integrally involved during the construction period by way of periodic inspections prior to handover.
- 10) The partner must ensure that the plan for the development is pre-checked by the Survey Department.

A.11 Management

- 11) The partner will be subject to monitoring action from the Ministry in all phases of the project – Planning, Design, Implementation, Accounting, and Evaluation.
- 12) The company must be duly registered or incorporated under the Companies Act of Jamaica and be in possession of an original, valid Tax Compliance Certificate (TCC), Taxpayer Registration Number (TRN) and should be able to demonstrate proof of payment of all applicable land taxes and public utility bills.
- 13) Proof of current professional registration and where applicable, NCC registration for all professionals and subcontractors must be provided.
- 14) The company must provide information on the Board of Directors, the Management Team, the majority shareholders and their percentage shares in the company
- 15) The names of Auditors and Attorneys-at-Law for the company must be provided.
- 16) A company profile must accompany any project proposal and the company must demonstrate competence in housing development or infrastructure construction and other development issues such as sound environmental practices, project management, and the integration of socio-cultural norms in housing development during the past five years (individually or as a company).
- 17) The last two audited financial statements of the company must be submitted.
- 18) All proposed developers must consent to background checks.
- 19) The partner must submit to the Ministry any subcontract related to the project that has been entered into with contractors and other professionals or for the purpose of obtaining loans/financing.

Financial

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- 20) The partner must be in a position to secure interim financing to develop the project. The equity investment of the developer should cover the costs of all professional fees and preliminary costs, which is estimated to be 20% of the development cost of the project.
- 21) The partner is expressly precluded from collecting any deposit prior to the opening of the Joint Venture account with the Ministry. The developer is to ensure that all deposits and further payments received are immediately lodged to the Joint Venture escrow account opened specifically. Monthly statements from said account made available to both the Ministry and the Joint Venture Partner accompanied by.
- 22) The partner must satisfy the requirements of the **tender process**, where applicable i.e. for projects, which are packaged and **advertised** (refer to the National Contracts Commission Tender Process).
- 23) Proof of current registration with the NCC must be provided where the developer will also act as the contractor for a project.
- 24) Overseas partners are required to source at least 30% of the interim financing from sources external to Jamaica. Interim financing in this instance refers to capital required to undertake construction after professional and other fees have been deducted.
- 25) The partner must demonstrate the ability to access at least 15% of the required financing within 60 days of signing the Joint Venture Agreement.
- 26) The partner will not have to pay interest to the Minister on the value of the land, if the project is completed within the project duration time specified within the agreement.
- 27) Where a project is not completed within the specified timeframe, interest on the outstanding balance on the land shall accrue commencing on the first day of the first month following expiration of the contractual project duration. The interest charged shall be commensurate with the Bank of Jamaica Treasury Bill rate at the time of the application of the interest.
- 28) The partner shall keep proper books of accounts of project and make these books available for inspection by persons duly authorized by the Minister within ten (10) working days of the request. Should the request not met be within the time specified the Ministry is authorized to take punitive and/or legal action as is deemed necessary. The fees expended for the keeping of the books or charged for the inspection of same, shall be a cost charged to the development.
- 29) The partner shall demonstrate that any savings obtained as a result of the Ministry's involvement in the development will accrue to the purchaser via presentation of development budgets.

- 30) In addition to the aforementioned, partners who are entering into the private sector facilitation agreement must satisfy the following requirements:
 1. Provide proof of ownership of the land or consent of owner (s) for the utilization of the land for development and provide proof that the land is free from encumbrances and occupation.
 2. Demonstrate a willingness to transfer the land into the name of the Minister of Housing.

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3. Demonstrate the ability to have 100% of financing accessible within 60 days of approval under the Housing Act (may include purchasers' deposits)
4. Demonstrate market demand including an affordability analysis
5. Ensure that the Development Company and the development scheme are registered with the Real Estate Board.
6. Ensure that all deposits and other monies received in respect of land and/or housing units are lodged in a trust account opened specifically for that purpose at a bank or other authorized financial institution.

5.2 ROLE OF THE MINISTRY AND ITS AGENCIES

Planning

- 1) Ensure that the site to be developed:
 - a) is free of any encumbrance that will impede the development
 - b) falls within other existing settlements or development nodes, or has other justification for its location.
 - c) has an adequately prepared project brief/tender documents for submission to all interested applicants (developers).
- 2) Ensure that sites are carefully chosen so as to maximize the safety of the developments and minimize natural disasters.
- 3) Ensure as far as possible, the conservation of natural resources and the protection of natural resources with commercial value.
- 4) Ensure that environmental considerations are addressed during the preliminary stages of the project development.
- 5) Facilitate the acquisition of lands where necessary for the purpose of Joint Venture Projects.

- 6) Ensure that the partner supplies properly prepared sub-division, conceptual (background information) and site location plans for submission to the relevant authorities to enable speedy and proper assessment of the project. This is necessary whenever there is a negotiated agreement rather than the tender/ advertisement process where the specifications of the project would have been established.
- 7) Provide support for research into and the use of indigenous resources.
- 8) Ensure that sustainable environmental and land use practices are followed.
- 9) Ensure that the National Land Policy's efforts to reserve classes I, II and III agricultural lands as well as lands containing mineral reserves and those important for the recharging of the water resources, are taken into account and that as far as possible, there is adherence to the settlement strategy.
- 10) Ensure that:
 - i. the provisions of the following laws are adhered to:
 - *The Housing Act, 1968*

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- *The Natural Resources Conservation Authority Act (1991)*
- *The Financial Administration and Audit Act*

ii. as far as possible the development is guided by the following planning laws and policies:

- *The Real Estate (Dealers and Developers) Act, 1987.*
- *The Town and Country Planning Act (1958)*
- *The Local Improvements Act (1914)*
- *The Local Improvements (Community Amenities) Act (1914)*
- *The Land Policy (1996)*
- *The KSAC Building Act*
- *The Parish Council Building Act*
- *The Registration (Strata Titles) Act*

- 11) Provide policy guidance in respect to demographic and construction trends particularly as it relates to material, designs and market conditions.
- 12) Ensure that the splinter titles are made available in a timely fashion. Where the development falls in the Joint Venture category, the carriage of sale over lots must reside with the Ministry of Housing however where the development falls in the Private Sector Facilitation category, this is optional. (Where the Ministry does not have adequate resources to undertake the carriage of sale, this activity will be sub-contracted).

Management

- 13) Declare the lands under the *Housing Act* at a cost to the project
- 14) Assess the feasibility of the project; monitor, report and evaluate all JV projects, employ all the necessary project officers/ personnel at a cost to the projects or JV programme.
- 15) Provide administrative support and legal services at a cost to the project. The administrative fees should typically range from 2-4 % of construction costs for Joint Venture developments and 1-2% for the Private Sector Facilitation developments, with the actual percentage being determined by the complexity and duration of the project, the level of input of planning by the Ministry, the type of housing solution produced as well as the principle of full cost recovery for project management services.
- 16) Provide or have access to technological and technical resources; where this is not readily available within the Government and its agencies, these will be procured as a cost to the projects/ JV programme.
- 17) Ensure that where the government subsidizes the development, the units are sold to first-time homeowners¹ or to homeowners who intend to sell their current home in order to purchase another.

¹ As defined by the National Housing Trust

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- 18) In the event that condition 17) is breached, ensure that the subsidy is removed from the cost of the unit in question and monies are refunded as necessary.
- 19) Appoint a committee to analyze the feasibility of projects and make recommendations to the Board.
- 20) Introduce greater transparency in the selection of projects by utilizing an independent body to determine which projects should be approved based on the recommendation of the sub-committee.

Financial

- 21) Ensure that where the lands used for the development are owned by an entity other than the Ministry of Housing, the owner of the land is compensated within a mutually accepted timeframe.
- 22) Obtain a return of no less than the market value of its land, unless otherwise approved by Cabinet e.g. to support social housing (as a subsidy) or any other justification. The Commissioner of Land Valuation or any valuer approved by the Commissioner, will be used to value all lands owned by the Ministry of Housing.
- 23) Ensure that where the Government provides lands for a Joint Venture Project, the Minister has the right of first refusal in the event of the sale of the land within ten years of the date of transfer. Note that the Minister shall reserve the right to apply a penalty equivalent to 25% of the capital gains ensuing from this transaction.
- 24) Establish a Joint Venture escrow account in conjunction with the Joint Venture Partner for accepting purchasers' deposits. The Ministry reserves the right to select the financial institution to be used. A minimum of ten percent of the total deposit is to be retained in the Joint Venture account until the infrastructure is handed over to the local authority. The deposit will be utilized, if necessary, to remedy any defects in infrastructure during the defects liability period
- 25) Assist developers in accessing information to secure any financial and other benefits or incentives from Government and its agencies such as JAMPRO.
- 26) The Minister shall negotiate each joint venture contract and seek the approval of Cabinet for the execution of the agreement.
- 27) Have the Joint Venture Proposal reviewed by an independent person or body so designated to ascertain the merits and limitations of each proposal in a transparent manner.

5.3 COLLECTIVE DUTIES AND OBLIGATIONS OF THE PARTIES

- 1) Withdrawals to cover the cost of work done and materials supplied in the construction of the development shall be administered similarly to the provisions of the Real Estate (Dealers and Developers) Act.
- 2) Facilitate the appointment of a committee of six (6) members, three (3) nominees of the Minister and three (3) nominees of the Developer for the purpose of administering

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the development and making decisions that from time to time are required. The committee shall, at a minimum, meet on a monthly basis throughout the life of the development and the quorum of any meeting shall be four (4) in number.

- 3) The Attorney General's department will approve a standard Joint Venture Agreement which will be tailored as necessary for each development, however, where there extenuating circumstances which warrant special consideration of the content of an individual agreement, this will be referred to the Attorney General's department.
- 4) The Committee and the Legal Department of the Ministry shall approve the form and content of the Agreements for Sale for the individual lots.
- 5) The Developer shall submit to the Committee copies of all agreements and contracts between the Developer and any third party that relates to the execution and completion of the Joint Venture Agreement.
- 6) The Committee shall ensure that the sale prices of lots and/or units are jointly set, based upon the development budget, by the Ministry and the Developer and are only modified (escalated) for certified increases in material, equipment and labour costs. Any modification in the sale price must have the written approval of the Minister.
- 7) The Committee shall approve the project team and has the right to appoint a Quantity Surveyor or other professionals to monitor the progress of the work. The Minister may appoint a representative to advise him on the progress of the development and make any fees chargeable in respect of this representative an expense to the development.
- 8) The Joint Venture Project will be terminated:
 - a) if any Joint Venture Partner commits a breach of any obligation under the Agreement and does not remedy it within 60 days of receipt of written notice to effect remedial action. If remedial work commenced but will not be completed within the stipulated period, providing it is evident that the Joint Venture Partner is making reasonable efforts to repair the breach, the project will not be terminated.
 - b) where a Joint Venture Partner becomes bankrupt or goes into liquidation either voluntarily or compulsorily.
 - c) In either case the Partner not in default may by written notice terminate the Agreement without prejudicing the right of any Partner to sue for any antecedent breach of the Agreement by another. Where termination occurs any Joint Venture Partner not in default shall have the right to complete the development and pay to the Minister the balance of the agreed sale price of the land and other outstanding costs or deliver the agreed lots in lieu of cash.
- 9) Developers who satisfy the criteria will sign a contract with the Minister of Housing and the terms and conditions regarding the execution of the particular project will be embodied therein.
- 10) Where a development company and the contractor have mutual shareholding within a company seeking to undertake a joint venture project with the Ministry then a tripartite agreement must be signed.

ROLE OF OTHER MINISTRIES AND AGENCIES

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Before the implementation of a joint venture project the following agencies are consulted: Ministry of Transport and Works, the National Environment and Planning Agency (NEPA), the National Water Commission, the Water Resources Authority, the Ministry of Health (Environmental Health Unit), the relevant Parish Council/KSAC and where necessary the Geological Survey Division of the Ministry of Mining and Energy.

Assistance is also provided by the following facilitating ministries and agencies: Ministry of Finance and Planning, Ministry of Local Government and Community Development, JAMPRO, National Housing Trust and the Jamaica Mortgage Bank (see Appendix 5).

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Appendix 5.

FACILITATING MINISTRIES AND AGENCIES

MINISTRY OF TRANSPORT AND WORKS

The Chief Executive Officer (CEO), National Works Agency in the MOTW is called upon to give comments and advice for joint venture projects, similar to that, which obtains under the Local Improvements Act. While *this is* not a requirement under the Housing Act, the comments are critical in helping to build sustainable housing developments as they provide technical and engineering solutions with respect to drainage (waste water discharge), and road construction. This information is essential in ensuring that proper standards are planned, designed and implemented that will enhance safety and good health and a better quality of life in human settlements. This makes the MOTW an essential partner and stakeholder in the JV process.

NATIONAL ENVIRONMENT AND PLANNING AGENCY (NEPA)

NEPA provides the urban and regional planning framework within which sectoral policies and national investments can be co-coordinated. Physical development plans are usually undertaken through joint-venture public and private initiatives. The Agency facilitates the decentralization of decision-making in planning approval and monitoring processes.

In terms of the joint-venture-housing programme, the Agency has a critical role to play in:

- Ensuring that the development satisfies standards pertaining to the provision of services and community facilities, setbacks from the property boundaries, lot sizes, densities, design and layout.
- Utility standards
- Design criteria for low-income settlements with policy and programme of incremental development involving the beneficiaries of land under approved schemes
- Development of plans for growth points identified in the Settlement Strategy
- Develop limits for all rural and urban settlements which must be delineated to safeguard against urban sprawl and encroachment on agricultural and mining lands
- Safeguarding against unplanned and uncoordinated development.

NEPA through the NRCA Act (1991) and the permit and licence system provides important regulatory and legislative functions relating to environmental conservation

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and preservation. Environmental Impact Assessments (EIAs) are requirements for most developments and a permit and licence is required for all developments of 10 lots and over. Through the use of these tools, NEPA ensures that environmental considerations are included in housing project developments in order to safeguard Jamaica's fragile ecosystem, integrate mitigation measures in the development process and thereby promote harmonious development. In collaboration with other stakeholders such as the Environmental Health Unit and the NWC, NEPA has one of the more significant stakeholder functions in the JV process.

NATIONAL WATER COMMISSION

The necessity of water for good health, life and development propelled the government to form a Ministry of Water in 1997. The Ministry together, with the NWC as its primary implementing agency, has undertaken the planning, and management of the country's water (surface and ground) resources and has produced a National Plan, the goal of which is to ensure access of potable water to all households and homes in Jamaica.

The NWC provides water and sewage infrastructure and services for housing developments across the island. In order to promote and facilitate sustainable human settlements developments, the Ministry of Land and Environment and the MOW&H/NWC must collaborate in forward planning and for approvals pertaining to the provision of water and sewerage in new housing schemes. Given the critical nature and inter-linkages of water, sanitation disposal and housing, the NWC is also one of the most important stakeholders in the JV process.

WATER RESOURCES AUTHORITY

The Water Resources Authority has responsibility for managing the country's underground water resources. Its input in the planning process is therefore necessary to ensure that the integrity of our underground water is maintained. This is critical especially in areas where the water table is high and where there are underground wells that are used to provide potable water. In addition, it may be necessary in certain areas to use these underground wells to supplement the NWC's water supply to a development.

In these cases, NEPA will always seek the comments of the WRA before approving a development, and consequently the WRA is a key stakeholder in the JV process.

MINISTRY OF HEALTH (ENVIRONMENTAL HEALTH UNIT)

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The Environmental Health Unit of the Ministry of Transport and Works through the National Environment and Planning Agency ensures that both the sewage disposal methods and infrastructure proposed for a development are satisfactory. This is especially critical in areas where the development will not be connected to a central sewage system. Given the importance of having adequate sewage disposal systems and the horrendous consequences when these are not in place, the role of the Environmental Unit as stakeholder in the JV process is a very important one.

MINISTRY OF FINANCE AND PLANNING

The Ministry of Finance and Planning (MFP) is responsible for setting the macro-economic financial and economic policies, which have significant impact on the performance of the housing/ construction sector. The MFP has some bearing on all aspects of the sector, but interest rate, foreign exchange, and monetary policies in general, and price and wage inflation policies are critical elements or indicators that ultimately will determine the cost factors/inputs and ultimately the cost of housing developments.

In addition, the MFP may provide the necessary tax and duty concessions to developers in the housing sector, particularly for the importation of fixed capital goods (materials and equipment) that are required in the construction process. This is an area that requires a clearly defined set of procedures and policy guidelines and must be elaborated through discussions between the MOFP and the MWH. The MFP is also responsible for the operation of bank accounts opened for the purposes of the Joint Venture.

MINISTRY OF LOCAL GOVERNMENT AND COMMUNITY DEVELOPMENT

Local public or private organizational structures, as legitimate entities, must be brought on board in the development of the joint-venture programme. The Parish Councils for example, must be involved in the planning and development process. Planners are now appointed to the Council, and their input should be considered in planning for housing needs. This is important given the fact that the local authorities are required to take over the infrastructure in these schemes after they are completed.

JAMPRO

JAMPRO is the Government of Jamaica's economic development agency, created to be a one-stop shop for investors, exporters and the business community both national and international.

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The Agency develops and implements programmes to encourage, expand and diversify investments, modernize the production and management systems of companies and stimulate growth of exports for Jamaica.

These programmes are geared to meet the needs of the entrepreneur in business development from project idea through to implementation and beyond. JAMPRO provides information on Jamaica's investment opportunities, the prevailing economic and market trends, as well as cost models and data on various types of investments.

JAMPRO maintains a comprehensive business library, which provides information on marketing, trade and investment, and has an entrepreneurial centre, which provides services to meet the special needs of the business sector. JAMPRO, on behalf of the investor, will seek approval for incentives as applicable, relevant licencing, utility connections, tax compliance, trade numbers, work permits and visas, and joint-venture partnerships. The agency has been a forerunner in forging joint-venture partnerships in the areas of business, commerce and industry, marketing and training.

NATIONAL HOUSING TRUST

The National Housing Trust (NHT) was established to mobilize resources to finance shelter through compulsory contributions. Under the law, employers are required to remit to the NHT a sum equal to 5% of their wage bill. Two percentage points of this 5 % are on behalf of employees and 3% on the employers' behalf. These compulsory contributions provide the NHT with a stream of funds at a weighted rate of 1.2 per cent.

The following products are offered by the NHT:

- Scheme Units
- Build-on-own Land (BOL)
- Home Improvement
- Open Market
- Serviced Lots
- House Lots
- Combined Mortgage Programme (CMP)
- Group Financing-Joint-Venture Facility

The NHT also assists by providing housing solutions through interim financing for other agencies and organizations. There is a bias towards low-income contributors, effected through the NHT's special interest rate agreement – the lower the income of the applicant, the lower the interest rate charged.

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JAMAICA MORTGAGE BANK (JMB)

JMB as a lender of construction and interim financing for the residential market has been increasingly playing a pivotal role in a number of JV projects. As a consequence, the JMB has become an important stakeholder to the JV programme, particularly in the last three years. This role being played by the JMB is expected to increase, especially as interest rate and by extension lending rates decrease. With cheaper rates or money (expected), a larger pool of funds will be created for construction financing at more affordable levels. This augurs well for the JV programme and for the housing sector, in general.