

PN-ACB-784

PADCO, Inc.  
Planning & Development Collaborative, International, Inc.

*Housing Finance & Municipal Advisory Program for Poland*

**THE ROLE OF TBS'S IN LOCAL HOUSING PROGRAMS:  
SUGGESTIONS FOR ORGANIZATIONAL AND BUSINESS PLANNING**

September 1997

Prepared for:

United States Agency for International Development  
(USAID/RHUDO)

Prepared under:

USAID Contract No. EUR - 0034 - C - 00 - 4029-00 (RFS 30)

PADCO, Inc.  
1025 Thomas Jefferson Street, NW, Suite 170, Washington, D.C. 20007, USA

## ACKNOWLEDGMENTS

The primary authors of this handbook are Martha Sickles-Grabowska, Kazimierz Kireczyk, and Marcin Szpak. Contributions were made by Ewa Bonczak-Kucharczyk, Mariusz Czepczyński, Jolanta Krękowska, Drs. Marek Majchzak and Tomasz Żelawski, Prof. Duncan MacLennan and Dick Quigley.

The handbook evolved over the past year and a half during the process of cooperation with staff of the National Housing Fund, local governments and their emerging TBS. Initial inspiration was derived from early cooperation with Krak System TBS of Krakow and the many staff members of the City of Szczecin who participated in the creation of the Szczecin TBS. Valuable comments, information and support have been received from leadership and staff of the National Housing Fund, particularly Irena Herbst, Bożena Wład, Anna Lipińska and Grażyna Wolska and staff of the Office of Housing, especially Barbara Akacka. The manual has undergone several revisions, improvements and additions made both as the laws and regulations changed and further information was developed through cooperation with the energetic and creative staff of many local governments and TBS.

Jarosław Pawłowski, Mariusz Czepczyński and Jakub Bruski, Urbecon/PADCO staff provided editing and technical support. Translation services were managed by PADCO staff, Krystyna Gałaska and Andrzej Toth. Management and administrative support for the project was provided by PADCO Chief of Party, Mark Brown and Office Manager, Helena Sinoracka.

Thanks to Grzegorz Dziarski and Richard Woodward of the Cooperation Fund who contributed to this project as well as other technical assistance to the TBS sector through their „Effective TBS Program”. Finally, special thanks to the leadership and staff of the United States Agency for International Development, William Frej, Rebecca Black, Michael Lee and Krzysztof Jaszczolt who have supported this work with the TBS sector over the past two years.

## TABLE OF CONTENTS

1.	INTRODUCTION	3
2.	DETERMINING THE NEED AND ROLE FOR A TBS	5
3.	BUSINESS PLANNING: STRATEGIC, OPERATIONAL AND PROJECT PLANNING - AN OVERVIEW	8
4.	BUDGET AND FINANCIAL PLANNING	22
5.	LEGAL AND ORGANIZATIONAL FORMS OF TBS'S	30
6.	SELECTING TBS ACTIVITIES: PROGRAMS AND PROJECTS	34
7.	MARKET ANALYSIS	37
8.	MARKETING STRATEGIES	41
9.	RISK ANALYSIS AND CONTINGENCY PLANNING	45
10.	STATUTE DEVELOPMENT AND APPROVAL	47
11.	PROJECT PLANNING AND PREPARATION OF THE BGK LOAN APPLICATION FOR NEW CONSTRUCTION	48
12.	MONITORING AND EVALUATING TBS PERFORMANCE	64
13.	CONTRASTING NOT-FOR-PROFITS: FRANCE, SCOTLAND, HOLLAND, AND THE UNITED STATES	66
	BIBLIOGRAPHY	71
	ATTACHMENT 1: Law on Selected Forms of Support for Housing and Amendment of Selected Acts	72
	ATTACHMENT 2: RECOMMENDATIONS TO AGREEMENTS AND CHARTERS OF SOCIAL HOUSING SOCIETIES	87

## 1. INTRODUCTION

To address the growing decline in housing construction and the need for new mechanisms to provide affordable housing, the Parliament passed the Act on Selected Forms of Support for Housing Construction (the Act) on October 26, 1995 which was later amended in August 1997. (Dziennik Ustaw: Nr. 133/654, October 26, 1995; Nr. 156/775 in 1996; Nr. 80/507, Nr. 103/651, 1997. The amended law and ordinance are attachment 1 of this document.

This Act provides the enabling legislation for:

- the establishment of not-for-profit housing organizations (TBS),
- the creation of a National Housing Fund (KFM) to provide financing for:
- the development and rehabilitation of rental housing,
- the development of related infrastructure by municipalities
- a contract savings system as a form of financing for housing purchase by individuals.

An implementing Ordinance, issued by the Ministry of Construction and Physical Planning<sup>1</sup> (now the Office of Housing and Urban Development) on March 29, 1996, sets out the conditions for rental housing project and related infrastructure financing by the KFM administered by the Bank Gospodarstwa Krajowego (BGK). The Ordinance was amended in June 1997 to provide more favorable terms for project financing and credits for renovation of rental housing stock.

As is often the case in the implementation of new laws and programs, questions and unresolved issues arise during implementation which need to be addressed to better assist municipalities and other interested parties in developing a TBS organization and activities. The authors of this manual have attempted to be as current as possible through ongoing consultation and cooperation with BGK, the Office of Housing, municipalities and TBS's. Recognizing that the TBS system will continue to evolve, the manual is structured in loose leaf format to allow for changes and additions.

The purpose of this publication is two fold.

- The first is to assist gminas and other interested parties in exploring the potential of forming a TBS to help meet the housing needs of their community.
- The second is to provide a framework for organizational development including a "business plan".

The potential and value of a TBS will be determined by the needs and problems of each local community, thus the emphasis on the locally based strategic and analytic processes described in this manual. TBS may not be a solution for every community and it is important for city leaders to think long range while establishing the TBS strategy to be sure that their initial investments in the TBS will reap the greatest benefits. The recent legislative and regulatory changes have greatly improved credit terms for the development and rehabilitation of rental housing by TBS, making TBS an attractive option for cities interested in these activities. Beyond the advantageous credits, TBS can assist cities in providing alternatives to city housing management, assuming housing activities previously carried out by the city, serving to facilitate public-private partnerships and playing a major role in housing privatization. Thus TBS can provide a mechanism through which cities can move away direct provision of housing services to a preferable role of housing facilitator and enabler.

A business plan is important as TBS will frequently be new organizations lacking a "track record" that will be seeking long term financing (20-30 years). BGK will require assurances that the organization can repay

the loan during its term. A financially viable project proposal provided by an organization with a clear mission, goals and strategic objectives substantiated by an operating plan will provide these assurances. Equally important, the business planning process can enhance the ability to structure a new organization to run effectively while meeting crucial community needs.

To develop a TBS and rental housing projects, the authors recommend strategic planning processes that should occur on at least three levels. The first is an overall needs assessment, the second is organizational planning, and the third is project planning.

1. The municipal leaders and potential shareholders, if identified, determine the need for and potential role of a TBS in helping to meet local housing needs and the role of the municipality in this endeavor.
2. Potential TBS shareholders develop a strategic and operating plan for the TBS organization over the next 3- 5 years.
3. The TBS shareholders and management board develop a project plan and pro-formas for a proposed development to be submitted to BGK for financing. In support of this loan application, BGK will require a business plan.

The manual draws on recent experience of gminas and other TBS shareholders who have embarked on the creation of a TBS and rental housing projects. The best experts are those who have gone through the experience of developing a TBS to serve their communities.

Beyond the organizational/business planning process, the primary focus of this manual, this document presents organizational models and activities of TBS, discusses the benefits of these models and identify issues and problems which require decisions from BGK and the Office of Housing to allow the organizations to organize and function most effectively. It incorporates Office and BGK documents outlining the laws, regulations and requirements for funding. It further draws on the analytic work of the members of the Ogólnopolskie Forum TBS, an organization formed in 1994 that has been supporting the evolution of the TBS sector. As much as possible, examples are provided to illustrate the processes and documents described in the manual such as: statutes, various policies and procedures, housing system data assessment and business plans. The manual attempts to indicate most issues crucial to the establishment of a strong organization, however many areas and disciplines will require further research. A bibliography of potential resources is attached to allow for further exploration by the reader.

## 2. DETERMINING THE NEED AND ROLE FOR A TBS

### What a TBS can offer

Not-for-profit housing organizations play important roles in developing, rehabilitating and managing housing in the United States and European countries, particularly housing targeted at low and moderate/middle income families. An important common element in all the systems is the active promotion of local resident involvement in housing and neighborhood improvement. Increasingly, not-for-profit housing organizations are utilizing private sector business practices that improve organizational productivity and efficiency, however, they are still guided by social goals and principles that set them apart from for-profit organizations.

The development of a not-for-profit housing sector in Poland could provide an additional option to municipal, cooperative and private sector housing development and management. The sector may contribute to complex neighborhood revitalization incorporating social, economic and physical interventions. To provide a broader perspective, a comparative analysis of not-for-profit housing sectors in four countries is presented in Chapter 13.

The enabling legislation allows a TBS to undertake a variety of activities in the housing field with primary emphasis on the development and management of rental housing affordable to moderate income families.

According to the Act, a TBS may conduct the following activities:

- develop and manage rental units,
- purchase residential buildings,
- carry out repairs and rehabilitation of residential rental buildings,
- lease commercial premises in TBS buildings,
- manage residential buildings not belonging to it, based on contracts, and
- carry out other activities related to the construction of housing and accompanying infrastructure.

Thus, the TBS can serve a variety of functions to meet the needs and interests of the local community, needs and interests which are best determined through a strategic planning process. In considering the merits of forming a TBS, municipality and potential shareholders should consider how the TBS can advance the local housing strategy, improve housing services and/or fill service gaps.

The Act provides an advantage of the TBS structure in that it is income tax exempt. All profits, however, must be reinvested for statutory purposes. The second advantage of a TBS structure is the ability to access preferential credits from the National Housing Fund.

### The National Housing Fund

The Act extends preferential credits to TBS and cooperatives for up to 70% of the qualified costs of developing rental housing, which meets specific cost and income criteria. Credits are also available to gminas for up to 75% of the cost of infrastructure related to the rental housing.

The ordinance sets forth the specific conditions of the credits granted by BGK as follows (cited from BGK promotional materials):

Rental Housing:

Maximum amount of credit: To 70% of the qualified development cost of the residential

portion of the project.

Interest rate:	To 50% of the NBP rediscount rate.
Grace period:	Up to 30 months from the date of the credit agreement
Targeted population income limits may not exceed 1.3% of the average monthly wage in the voivodship by:	20% for a single person household 80% for a two person household 120% for a three person household 40% additional for each additional household member.
Funding structure:	Up to 70% of total development cost from KFM 10% payment from tenants The remainder from other credit or equity sources.
Loan repayment:	Monthly payments of not less than 0.24% of the loan; with quarterly adjustment according to the local voivod index per usable square meter.
Loan guarantee:	Real estate mortgage as security and assignment of project insurance policy.
Rent Levels:	The rents must cover mandated costs but not exceed 4% of the regional "replacement value" determined using the voivod cost index. If a tenant exceeds the maximum allowable income limits, the TBS may charge a "market rent". The maximum income is determined based on the average wage in the voivodship.
Infrastructure Development:	
Targeted population:	Same as above.
Maximum credit:	Up to 75 % of the investment cost.
Interest rate:	0.5 of the rediscount rate.
Grace period:	The period and other conditions are determined by the bank.
Loan repayment:	Paid monthly, amount established in the agreement.
Loan guarantee:	Determined by BGK in each case.

## **The Role of the Gmina**

The Act requires that the municipal council approve the rent levels of TBS constructed or managed housing. According to the Act, the gmina can also choose to place a representative on the TBS supervisory board even if it is not a shareholder. While it is not essential that a municipality participate in the formation of a TBS, it is advisable that the municipality play an active role in determining the role and mission of the TBS.

To fulfill collateral requirements in the Banking Law, the BGK is requesting municipal guarantees for all loans extended to TBS. BGK is exploring alternatives to address this requirement, however this has major implications on TBS formative decisions.

As municipalities have a statutory obligation to provide for local housing needs, they are in a unique position to assess the need and role for a TBS in the local community and to inspire its development. Thus the first strategic issue should be for the municipality and any potential shareholders to assess the role of the municipality in this endeavor.

In the short interim since the passage of the Act, the municipalities have played a crucial role in the formation of TBS as a partner, the sole owner or through provision of land, buildings or financial support. As the Act does not provide any state support for organizational development or operating subsidies, either the organizations must begin as volunteer supported entities or receive property or subsidies from their shareholders. There is only the partial project financing for rental housing development from the KFM as described above. All other TBS activities must be self supporting or subsidized by sources other than the central government. This makes business planning all the more important for the municipality and other shareholders in order to assess how the TBS can be self supporting while addressing local housing needs.

Examples of municipality activities to create, inspire or support TBS are as follows:

- Offering start-up assistance to TBS: staff-on-loan, funds, office space.
- Participating as a shareholder and offering land and funds to partially fill the minimum 20% capital gap for project development.
- Publicly advertising for potential TBS shareholders.
- Transfer of management responsibility of a portion of the communal housing stock to a newly formed TBS.
- Transformation of housing management entities into TBS wholly owned by the municipality.
- Development of a TBS wholly owned by the municipality to which property is transferred.
- Providing loan guarantees for BGK credits.

TBS are being formed without participation of a municipality or with the participation of several municipalities. With or without the active participation of the local government, shareholders will benefit from engaging in strategic, operational, and project planning processes which form the basis of the business plan.

### **3. BUSINESS PLANNING: STRATEGIC, OPERATIONAL AND PROJECT PLANNING - AN OVERVIEW**

Business planning began in the private sector as a tool to improve organizational efficiency and productivity. It has been adopted by the public sector due to the relatively recent emphasis that public and not-for-profit organizations must adopt a competitive, business-like ethos. Establishing a TBS structure through a business planning process will clarify the direction for the organization; placing a focus on where an organization is today, where it may go in the future, and how it can best get there.

A properly structured business planning process will assist all involved parties in setting out the goals, objectives and key strategic issues for the organization. It should aid the leaders of the organization to create a unified strategic purpose among the leadership, staff and constituents. A well prepared and actively utilized business plan will serve as a tool for managing and monitoring the organization as it implements its mission. For this purpose, the business plan should be reviewed periodically and updated as necessary. This is particularly important for TBS as external factors influencing the housing market are quite fluid. Finally, the business plan is a vital means to communicate with potential investors or lenders.

Thus business plans serve two key purposes:

1. As an internal management tool to promote a business-like and strategic approach in day to day operations.
2. External communication to aid lenders or investors in judging the viability of an organization seeking a loan or capital.

There are many types and formats for business plans depending on the nature of the organization and the intended use of the plan. Business plans are developed when an organization or individuals are:

- Starting a new venture, business or service.
- Expanding an existing business.
- Reorganizing or even abandoning an activity.
- Deciding on whether to invest (or to continue to invest) money, time and staff resources in an activity.

Most TBS will start as a new business and many will be assessing investment in a development project. The business planning format suggested below is designed to meet both purposes.

Business plans contain two main components: the strategic and the operational.

1. The strategic plan describes what an organization intends to do in the future and how it will get there. These are presented in its mission, goals and objectives.
2. The operational plan sets out the organizational structure, programs, activities to achieve the goals, as well as the sources and uses of funds needed to do so.

The following elements of these two components provide specific information about the organization.

1. Strategic
  - Mission Statement                      Why the organization exists
  - Goals                                      What the organization seeks to                      accomplish
  - Specific Objectives                      What the organization will accomplish and when
  
2. Operational
  - Action Plans for Projects              What the organization does to accomplish its goals, Programs and Services
  - Basic Policies and Principles        How the organization carries out its mission
  - Results                                      What are the expected outcomes and how will they will be measured.
  - Financial Plans                            How much it will cost and produce as revenues and assets.

Important to both components is an assessment of the market to first determine the appropriate mission for the organization and later, more specifically to design the programs, projects or services of the TBS.

### **Business planning vs. Project planning**

As a common reason for TBS formation is to access the KFM credits for the development of rental housing, much attention is directed towards the planning and preparation of a development project to be funded by the KFM. However, the project feasibility analysis details only one aspect of the business plan. The business plan describes the organization and all its activities.

- Project feasibility analysis and proformas describe the financial profile of one specific real estate project.
- Project proformas provide information that may be critical to the business plan such as expected fees from management, rental income and developers fees.
- Project proformas do not describe the full operation of the organization, it's goals, objectives, overhead and management structure.

### **Preparing to plan**

Successful planning requires time and preparation. There are a few essential steps for organizing the process and participants.

1. Determine the planning team. The group should be small but should include representatives of all interested parties. This includes the gmina political leaders, relevant department heads, potential TBS shareholders. A core team may be established to gather necessary information and prepare the draft document, but all team members should be involved in the review of the environmental assessments, mission statement and goals.

2. Allocate adequate time and select appropriate facilities. Good planning requires several days of collective work, followed by drafting the plan which is circulated to the planning group for review. A follow-up meeting will likely be necessary to discuss and approve the draft.

3. Assemble necessary documents and conduct research first. Essential information for parts of the planning process should be collected prior to the planning meeting. All legal documents or models of legal documents: statutes, bylaws, and other governing or financial documents if they exist should be distributed to all members of the planning team. Some critical documents are: the Act and Ordinance, guidelines developed by the Ministry for development of a TBS and drafting of a TBS statute, examples of approved statutes.

The data necessary for describing the local housing market or system and conducting environmental assessments should be assembled to assist in decision making. If the gmina has a local housing strategy much of this information may be included in it. If not, it would be useful to assemble this data prior to the planning meeting.

4. Select a facilitator. Often a planning process is greatly aided by an external facilitator who is experienced in business planning. This person can assist the group in reaching consensus, keeping discussions focused and moving the process forward.

5. Read this guide. All the participants in the planning process should read this guide so that there will be mutual understanding of what they are to achieve through the planning process.

## **CREATING A STRATEGIC PLAN**

The intent of the strategic planning process is to determine the role the TBS can play in meeting local housing needs and to develop the mission statement, strategic goals and specific objectives of the TBS to fulfill that role. The strategy must be realistic given the resources of the shareholders and must provide for organizational growth and sustain ability. As the TBS will generally require some form of municipal support or approvals, it is suggested that all key local government decision makers participate in the preparation of the plan or at least be involved in reviewing the results of this process. One reason strategic plans fail is the lack of commitment by the shareholders and the organization's staff and management.

Successful strategic planning processes are guided by two basic rules:

1. The creation, implementation and monitoring of the plan is not a one-time event. It is a continuous organizational process which should inspire adaptation to ever changing internal and external environments.
2. The strategic plan is a statement of important but flexible guidelines, not rigid doctrine.

### **Assess the external environment**

The first step in the process, the assessment of the external environment, is the analysis of external factors or trends which influence the formation of the TBS and the determination of proposed activities. This will include external factors affecting the local housing system, the local housing system itself and its capacity to meet present and projected future needs. A three to five year perspective is suggested as the external environment is still very volatile.

This evaluation will enable the gmina and potential shareholders to determine what may be a realistic and productive role for a TBS to play given the potential activities set out in the Act and the needs and opportunities presented by the local housing system. If the municipality has a housing strategy, much of this

step may be completed and the mission and goals of the TBS may be set out within the strategy. Participants should review the strategy to be sure there is agreement with the gmina's assessment of the local housing system and proposed mission and goals for the TBS.

There may be situations in which the selected general market area to be analyzed may be larger than one gmina depending on the size of the primary gmina and the types of products and services envisioned by the TBS. The general market area consists of the region in which the demographic and economic trends may affect the performance of a property, product or service. The competitive market area for a TBS rental housing project will depend on housing availability, transportation, and the structure of the local employment market. For information gathering and comparison purposes, it is useful to define the area in such a way that secondary data will be available.

Much information concerning the suggested external factors may be obtained from such sources as the Regional and National Statistical Offices, the Housing Institute and other research resources or the City Hall. More focused primary data may be obtained from interviews with politicians, local housing providers and experts, housing service consumers or chambers of commerce. Certain information is best obtained through focus groups or surveys, however these methods are more costly.

**External Factors:**

- The economy. Evaluate local, regional and national economic conditions and trends that affect the local housing system, currently and in the future. The housing market is affected indirectly by such international/national trends as exchange rates, interest rates, inflation projections, balance of payments, tax policies, and industrial production. National and regional indicators provide comparisons with which to assess the performance of the local economy such as the consumer price index, employment, new construction and average wages
- Physical and environmental factors of the area, including land planning regulations, transportation links, commercial and social infrastructure.
- Social factors such as attitudes, behaviors and preferences
- Demographic data including general population, age profile and marital status, household size and formation, natural and migratory growth or decline.
- Local income levels
- The legislative, political and regulatory environment. Assess legislative, political and regulatory factors on the national and local levels that will influence the local housing market.
- The local housing system. Existing stock. Assess the housing resources by sector, tenure, ownership, age and condition, prices, rents and management costs. Potential development sites: with/without infrastructure. Local housing providers: developers and managers. Housing development trends over the past 5 years.
- Communal housing services. Assess the gmina's role in the provision of housing, and the performance and capacity of the city or city-sponsored housing management.
- Potential shareholders or providers of capital for TBS activities.
- Other sources of funding.

This analysis will serve to determine top priority local housing and service needs, now and in the future. It will outline the capacity of the existing housing and housing service providers to meet these needs, indicating potential markets for the TBS. It should also identify potential TBS shareholders or competitors. It should form the basis of a market analysis for particular programs, projects and services.

### **Assess the Internal Environment**

If a TBS is judged to be a potentially viable tool after assessment of the external environment, the next step is to evaluate the actual and potential resources of the gmina or potential shareholders to organize and support the mission of the TBS as it evolves. This analysis of the internal environment should include the same three to five year horizon. This assessment should explore:

- the nature of the gmina's involvement,
- the contributions of potential shareholders to the TBS to aid in goal attainment,
- the optimum legal structure for the organization, and
- the optimum area(s) of operation for the TBS.

This step is essential in determining the activities of the TBS and creating the basis of an achievable organizational plan. In this process the gmina should decide how to inspire the development of a TBS and how active a role it wishes to play in the TBS.

### **Internal Factors:**

- Proposed programs, services and projects; based on actual and potential markets and the ability to be self-supporting,
- Proposed governance and staffing structures, responsibilities, resources and relationships.
- Current existing, potential and future operating resources, including office space, equipment.
- Potential capital and or property (land/buildings) for development of a TBS rental housing project.
- Potential human resources.
- The potential shareholders and their roles.

### **Methods for Conducting and Testing the Environmental Assessments**

There are different methods to gather input into the environmental assessments from all key participants. The determination of which method to use will depend on the schedules and availability of the participants. One method is for a core group to collect information and present it at a meeting for discussion at which time a consensus is reached.

Another is to develop a questionnaire which is distributed to all participants which be evaluated by a smaller group and presented to the full committee for review, discussion and approval. If the participants are busy, it may be advisable to use the questionnaire method which will help participants think through issues prior to the meeting.

It is advisable to test the environmental assessments in a group discussion. One method to do so is the SWOT (strengths, weaknesses, opportunities, threats) analysis, to evaluate the external factors as either opportunities or threats and the internal factors to assess strengths and weaknesses.

Another tool for planning is to engage participants in collectively conceptualizing the concept and potential of the TBS through a visioning process in which participants share their ideas of what the TBS should be in the future. This will help the members of the planning committee to think through their conceptions of the organization and to facilitate longer range planning. This visioning process could assess potential activities and organizational structures based on a range of projected environmental situations.

The key is to select those processes best suited to the situation to ensure that all participants are involved in the discussion and agree on the internal and external factors influencing the organization.

### **Developing the Mission Statement**

The findings of the external and internal assessments provide the technical and quantitative bases on which to determine the role the TBS may play in the local housing system and the present resources to draw on in the initial stages of organizational formation. The next step is to develop the mission statement and organizational goals and objectives which are the core of a strategic plan.

The mission statement establishes the purpose of the organization and sets its priorities and parameters. It is the most important element of the strategic plan and often the most difficult to develop, particularly if the TBS shareholders represent different interests. However, the process of developing the mission statement and strategic objectives will provide a forum to mediate these different positions in the best interest of creating a most effective organization. Goals may be included in the mission statement or set apart. The model used here includes goals within the mission statement.

The Act sets out the types of activities for the TBS and crucial elements of its mission. Most TBS in formation cite all of these potential activities in their statutes, regardless of whether they have concrete plans to include them in their program. The goals and objectives may be broad, as a broad interpretation of purpose allows for greater flexibility. The Ministry has issued guidelines for developing a TBS statute which are attached (in Polish version only), and which should be reviewed as a basic parameter but there is much room to meet local needs through creative and strategic thinking.

For a mission statement to be effective, it should meet the following ten conditions (or as many as possible)<sup>2</sup>:

1. The mission statement is clear and understandable to all parties involved. TBS members can articulate and relate to it.
2. The mission statement is brief enough for most people to remember.
3. The mission statement clearly specifies the purpose of the TBS. This includes a clear statement about:
  - What needs the TBS is attempting to fill (not what products or services are offered);
  - Who the TBS's target populations (end-users) are; and
  - How the TBS plans to go about its business; that is, what its primary programs, products and services are.

4. The mission statement should have a primary focus on a single strategic thrust.
5. The mission statement should reflect the distinctive competence of the TBS. (What can it do best? What is its unique advantage?)
6. The mission statement should be broad enough to allow flexibility in implementation but not so broad as to permit a lack of focus.
7. The mission statement should serve as a template and be the means by which participants in the TBS can make decisions.
8. The mission statement must reflect the values, beliefs, and philosophy of operations of the TBS.
9. The mission statement should reflect attainable goals.
10. The mission statement should be worded so as to serve as an energy source and rallying point for the TBS (should reflect commitment to the vision).

Sample mission statements.

#### Sample 1. XYZ TBS

The mission of XZY TBS is to develop affordable rental housing for moderate income residents of XYZ and to manage this and other housing to the highest standards and in the best interests of its tenants at the lowest feasible cost. Through its housing and related programs, XYZ TBS will seek, in partnership with other public and private entities, to bring about improved economic opportunities for these citizens.

#### Sample 2. ABC TBS

The mission of ABC TBS is to manage, develop and upgrade housing, targeted for moderate income residents, as well as other local facilities to further the revitalization of ABC neighborhood and activation of its economy. ABC TBS will provide the highest standards, maximum level of tenant involvement in planning and financing and lowest cost of service feasible in all its housing endeavors. It will work in close partnership with private and public sectors to elicit varied sources of funding to fulfill its mission.

### **Strategic Objectives**

Strategic objectives set out the process for the TBS to realize its mission. They articulate what the TBS intends to achieve during the period of the plan. These objectives should reflect the needs and circumstances realized in the external and internal assessment processes. These objectives will serve as guidelines or goals of the operational plan which elaborates specific programs and activities to accomplish the objectives.

Sample Strategic Objectives:

#### XYZ TBS

**Strategic Objective 1:** To organize the TBS to best fulfill the mission and to maintain a flexible management policy to take full account and best advantage of the changing local housing system and financial climate.

**Strategic Objective 2:** To develop staff and an organizational structure to operate as a good developer and manager of moderate income rental housing.

**Strategic Objective 3:** To provide educational and participatory opportunities to tenants to increase their involvement in the management of their housing and overall planning and service delivery in their community.

**Strategic Objective 4:** To provide an appropriate range of housing developments and services to meet the evolving housing demand in the TBS target area.

## **CREATING THE OPERATIONAL PLAN**

Based on the results of the strategic analysis, the operational plan defines the organizational structure, management and decision making structures and processes. It details the staffing, programs, associated costs and revenues (in the financial plan), and schedules to accomplish the activities necessary to carry out the organization's mission and objectives.

### **Organizational Structure**

#### **Legal Structure**

The legal structure is the foundation of any organization. TBS may choose from three legal structures:

- limited liability company,
- joint stock company, or
- cooperative of legal entities.

The selection of a structure will be dependant on the planned activities of the TBS, the preferences of the shareholders and the anticipated means of raising capital.

Currently, two other legal forms exist for not-for-profit organizations in Poland: foundations, which operate under the Law on Foundations, and cooperatives, which operate under the Law on Cooperatives. It is important to note that cooperatives may apply to the KFM for preferential credits to develop rental housing. If the sole reason for creating a TBS is to access preferential credit from the BGK to build rental housing, gminas should explore the merits of working with a local cooperative to develop a rental project versus creating a new organization.

The selection of the legal structure of the organization should reflect the requirements of its activities. There are pros and cons to each type of legal structure which are discussed in Chapter 5.

Once the legal structure of the organization is selected, many of the details of the management and organizational structure are determined by the relevant portions of the commercial code or cooperative law. Further guidelines are set out in the Ministry's Recommendations for TBS Agreements and Statutes.

The complexity of the organizational structure will depend on the size and history of the organization. A transformed housing management entity will have a relatively complex structure versus a newly formed TBS which may be reliant initially on volunteer effort from its shareholders. Even over time, considerable work may be conducted by short term consultants under the direction of a small core staff. In any case, the organizational structure should be presented clearly in text and chart form. Organizational growth should reflect the projected activities in the detailed plan.

## **Management Structure**

The Ministry's Recommendations for TBS Agreements and Statutes outline some criteria for the roles and responsibilities of the management bodies of the TBS depending on the legal structure:

- Shareholders or partners meeting
- Supervisory Board
- Management Board

This information is to be included in the organizations's statute and should serve to guide the management process and delegation of responsibilities.

### **Supervisory and Management Boards**

The roles of the supervisory and management boards are quite broad as is the case in not for profit organizations. Board members are intended to be an important resource to organizations and should be selected with care. Availability and level of commitment are as important selection criteria as appropriate contacts or skills. According to the Recommendations, the supervisory board is to be drawn from persons with housing experience as the board has considerable statutory policy making or affirming functions which include:

- change in the statute or agreement
- applications for credit from the KFM
- acquisition of real estate
- rent setting
- use of investment funds
- other defined functions

In selecting board members, consideration should be given to other functions usually fulfilled by Supervisory Board members of not-for-profit housing organizations, such as:

1. Ensure the mission is being carried out.
2. Participate in and approve all overall policy making, long range planning, goal and objective setting.
3. Maintain fiduciary responsibility.
4. Contribute to the organization financially through developing fund raising strategies, accessing sources of funding and making other types of contributions.
5. Maintain ethical standards.
  - Maintain board confidentiality
  - Recognize conflicts of interest
  - Respect and support staff
  - Maintain appropriate lines of communication.
  - Understand and maintain separate roles.
6. Enhance the public image of the organization.
7. Recruit other volunteers.
8. Build consensus and political support.

The Act suggests one member be selected by gmina officials. Other members can be drawn from contractors, local universities, local housing providers both public and private, tenants and members of the public who may provide valuable knowledge and/or contacts to sources of funding. The number and composition of Supervisory Board members should depend on the volume and range of functions required by the Board but a range between 3 to 10 members is usually recommended.

Many not-for-profit organizations rely on a committee structure to involve volunteers in the organization's operation. The purpose of committees is to support the board and staff in carrying on the work of the organization. The number and type of committees is usually determined by the Supervisory Board. Standing committees which relate to the governance of the organization are often described in the organizational statute. They usually include an executive committee which governs the organization between full board meetings and a finance committee which works with the executive director on the financial aspects of the organization. A committee structure or an Advisory Board provides mechanisms to include consumer participation in the organization. If there is a desire to keep the Supervisory Board small, an Advisory Board may be formed with the types of persons listed above to fulfill some of the expert, political and fund raising functions.

The Management Board is appointed by the Supervisory Board. It deals with day to day operations and is usually comprised of the senior staff or just the executive director. Beyond what is mandated in the Act and Ordinance, it is important to set out clearly who is participating in the management of the organization, their roles and area of responsibility. This could be facilitated by drafting the proposed scope of activity or rules of procedures for Supervisory and Management Board members including scheduled meetings and an assessment of additional activities and time required. This should be set out in the operational plan both in text and in the form of an organizational chart to clarify the decision making process.

### **Programs and Projects**

This is the heart of the operational plan, detailing the activities required to attain the mission and strategic goals. The organizational structure and staffing will be guided by what is required to carry out the programs and projects most effectively.

Most TBS are or will be building, rehabilitating and managing rental housing. A new TBS may have only one project initially, the development of a rental housing project. However, the development of the organization also requires attention as will the plans for management of the housing developed.

The key for TBS is to determine a mix of activities that will meet their statutory requirements and sustain the organization over time. The plan should set out how activities will be carried out, by whom and the time frame in which they will be attained. TBS activities are further discussed in Chapter 6.

### **Staffing**

The staff of the TBS are its most crucial resources, bringing the requisite experience and skills to the newly formed TBS. Staff selection criteria should include an understanding and commitment to the mission and values of the organization. Skill development programs may be created to enhance staff abilities. Staff values and commitment to the mission may also be developed in those with a receptivity to the conceptual mission of the organization, but the most skilled person lacking commitment to the organizational mission will not greatly benefit the organization and may even be destructive to goal attainment. The overall image and perception of the capacity of the organization will depend considerably on the quality of the staff and board

members. The selection of staff is dependent on the proposed activities of the TBS, their phasing, and the ability and desirability to contract out for selected services.

Several newly formed TBS lack paid staff and are operating through the voluntary contribution of time from staff of the shareholders or other volunteers. This should be clearly identified in the operational plan with estimated duration and level of effort and commitment letters from the shareholders/volunteers indicating the length of time and estimated value of their in-kind contribution. Many organizations operate on an ongoing basis with volunteer boards. Staff may be voluntary, but usually only for an interim period. The operational plan should indicate when resources will be available for staff salaries commensurate with increased activities.

It is recommended that an executive director and one support staff person be hired as early as possible to coordinate and facilitate the work of the board and external consultants.

The staffing plan should be set out with descriptions of the tasks of each employee, the timing hiring, and the level of qualifications required.

### **Basic Policies and Principles**

Written policies and principles to guide the organization will provide clarity for management, staff and clients. As a new organization, the ability to communicate methods of operation gives assurance to potential clients and investors that the organization has thought through its management strategies and practices and is run professionally. Policy areas should include:

- Rent
- Unit Allocation
- Management Policies
- Personnel Policy
- Use of Consultants and Contractors

### **Performance Indicators/ Standards**

Goal and mission attainment by the TBS can most effectively be monitored and measured using appropriately selected performance standards that provide a target against which the TBS can assess its own accomplishments in all areas of its activities. Standards should be selected to measure the most critical issues in the least complicated manner. The issues depend on the activities of the organization and may include:

1. organizational management and finance
2. property management services
3. development projects and services
4. tenant accountability and services.

These standards also serve to evaluate staff performance, external housing managers and consultants. To be most effective, they should be developed with full participation of management, staff and/or outside consultants hired to carry out the work.

Organizational management standards emerge from the establishment of clear goals and objectives, the strategies and programs to carry them out, and the means to monitor progress against them.

Financial management standards stem from systems for financial planning, accounting, and risk management. These systems are overseen through auditor approved financial controls.

There are basic performance standards for property management and development which organizations can tailor to meet their specific needs. A discussion of general housing indicators and property management indicators (attachments in Polish version only).

### **Market Analysis**

A market analysis is essential to understand the conditions of the local market that will guide the formation and affect the success of the TBS. TBS must respond to a pre-determined targeted segment of the market for the KFM funded housing projects, moderate income families, however this market segment may be further defined to allow for optimum product planning. By exploring the market TBS may identify service gaps and opportunities that they may fill. Important markets for the TBS to monitor are state government and the donor sector as TBS should be both shaping and serving the community development goals of both these sectors. Market analysis further discussed in Chapter 7.

### **Financial Analysis**

A financial plan is a tool for organizational development, evaluation of project and program feasibility and determination of capital requirements.

Financial projections are an important requirement of banks in credit evaluation for rental housing projects. The projections must prove that the organization will generate revenues or have resources sufficient to cover its operating expenses and debt service.

However, financial projections are not only prepared to satisfy lender requirements. Reliable analyses are very useful in determining the optimum direction for organizational development. Proper preparation and utilization of a financial projection model increases organizational effectiveness and efficiency and, through more detailed planning, enables a reduction in the amount of capital required and reduces the risk of losing financial liquidity.

To meet the specific needs of a TBS, an accounting system is recommended that consists of separate budgets and accounts for the funds used for project development, housing management and general operations. A more complete description of the financial planning process is provided in Chapter 4.

### **Marketing Strategy**

A plan for selling each of the TBS products and services is the TBS marketing strategy. The strategy may differ for the services and products as they will have different consumers who are best reached through varied mechanisms. This is further discussed in Chapter 8.

### **Risk Analysis and Contingency Plan**

The awareness of the risks involved in the TBS venture or potential threats to the success of a TBS strategy is the first step in mitigating them. The strategic organizational development process suggested in this document should facilitate identification of threats that will guide the TBS organizational and program/project strategies. However, even the most strategically created organization will face continued risks. When new program and projects are undertaken, each should be held up to a risk analysis. It is important for both management and financial strategies to clearly state potential risks to organizational growth and attainment

of programmatic goals and to develop contingency plans. Further discussion of risk analysis is included in Chapter 9.

## **ELEMENTS OF A BUSINESS PLAN**

Successful completion of strategic and operational plans should provide most of the content of the business plan. There is not one business plan structure; however, the structure below reasonably reflects the requirements of the BGK while also addressing other general business plan criteria.

### **0. Executive Summary**

This is a summary of the business plan. It provides the reader with a quick view of the TBS. The summary is usually drafted after completing the entire plan.

### **I. Business Description**

This section should review the purpose or mission of the organization and the goals and objectives to carry out the mission.

- State the mission and strategic objectives of the TBS.
- Provide a brief history of the organization.
- Explain the legal form, general management and employment structure.

### **II. Proposed Products and Services**

This section should outline the proposed activities, in the first year and from a longer range perspective.

- Describe the geographic area of operation. There may be primary and secondary areas.
- State the activities to be carried out over the next 3 years including problem issues to be addressed.

### **III. Market Research**

Description of the local housing system in the geographic area of operation.

### **IV. Organization, Management and Staffing**

This section includes a detailed organizational structure, with job/role descriptions. As the TBS is a new organization with no experience, demonstrating shareholder experience is important.

- A. Provide projected staffing, especially if organization is currently run by volunteers.
- B. Provide biographical information of shareholders, board members and senior staff,
  - Shareholders
  - Supervisory Board
  - Management Board
  - Staffing with salaries and job descriptions
- C. Personnel and contracting policies
- D. Decision making process.
- E. Rent, Unit Allocation and Management Policies
- F. Other Performance Indicators

### **V. Financial Plan for the Organization**

### **VI. Description of Development Project**

VII. Marketing Strategy for the TBS, its Development Projects and Other Programs

VIII. Risk Analysis/Contingency Plan

A sample business plan is included as Attachment 8, and a form to evaluate the status of TBS development is Attachment 9. (attachments in Polish version only)

#### 4. BUDGET AND FINANCIAL PLANNING

The rules for developing financial plans are standardized according to applicable commercial codes and regulations and general accounting principles. Nevertheless, each type of organization has specific characteristics which need to be reflected in the financial planning process. TBS as not-for-profit housing organizations (NFP) have certain characteristics which may complicate financial planning and management. NFP are founded for public purposes and usually have multiple projects and programs, frequently including the long term management of properties. They are often community based organizations that involve neighborhood residents and tenants in decision making. And they usually have limited resources to support their operations. TBS share many of these characteristics which require a financial planning system providing good accountability.

It is necessary to present the TBS, its programs, services and investment project(s) in a form attractive to potential shareholders, presenting factors such as the degree of investment risk and potential benefits for investors. A high level of risk, or a lack of information to enable risk evaluation will create difficulties in obtaining financing or raising capital with favorable terms. Risk factors in housing development include: the inability to manage the organization effectively, too extensive use of debt financing, and problems with financial liquidity. These factors can be minimized through good financial management practices and methods.

One method is fund accounting which is the practice of keeping separate records for separate „sets of assets” , each dedicated to separate purposes. For the purposes of the TBS, three fund accounts are suggested: the operating fund for administration, a housing management fund(s) for rental properties under TBS management, and a project fund(s) for each development project. A general format is presented as a starting point, but each organization will have to modify the format to meet its specific needs.<sup>1</sup>

The process of financial planning can be improved by using computer models. They significantly reduce calculation time and enable the user to modify assumptions quickly and perform risk analyses.

The following basic modules are presented for new TBS that are considering housing management and development. This structure enables the organization to divide its activities into functional areas as project budgets, and then summarize them in the financial statements, thus providing a complete picture of the organization's financial position.

1. Startup budget
2. Operating budget
3. Investment project budgets
4. Housing management budgets
5. Sources of funds.
6. Financial statements (Income, Cash Flow and Balance Sheet)
7. Financial analysis.

##### **Startup budget**

The start up budget includes a list of all expenses associated with establishing an organization and providing it with the assets necessary for its initial functioning.

---

<sup>1</sup> Budget concepts adapted from Managing the Money Side : Financial Management for Community-Based Housing Organizations, Institute for Community Economics, Springfield, Massachusetts, 1994.

- **costs of establishing the organization**
  - legal costs
  - treasury payments
  - costs of securing capital
  - preparation of strategic/organizational/business plans and financial analyses
- **acquisition / adaptation of office space**
  - lease deposit or purchase price
  - cost of renovation
  - telecommunication connections
  - computer network
- **purchase of equipment / fixed assets** (list all equipment needed with prices):
  - furniture
  - computers
  - software
  - telephones, fax
  - photocopier
  - car
- office supplies
- working capital reserve
- other initial expenses

It is relatively easy to plan expenditures for equipment purchase and organizational startup, which require compilation of a list of all equipment needed and activities to be conducted with cost estimates for both. A portion of these items may be contributions in kind from partners or shareholders. These contributions should be cited in the budget.

It is usually more difficult to determine the necessary amount for a working capital reserve. An estimated amount of capital required to support the organization's operating costs until it becomes self financing, usually 3-12 months, is recommended.

### **Operating budget**

The operating budget includes the expenses and revenues of operating the organization as well as transfers from the other funds. The precise line items of the budget for a new organization will depend on the organization's activities but will reflect the following general framework.

- planned operating expenses divided into categories,
- planned operating revenue.

The basic categories of the planned operating expenses are:

- salaries
  - salaries of individual workers / groups of workers
  - long term contract vs. task contract
  - including social security and other benefits
- office rent
- utilities: energy, water and heat
- telecommunication
- office supplies
- marketing materials
- promotion

- services
  - legal
  - accounting
  - other
- travel and transportation
- property insurance
- debt service
- other

The detailed planning of operating expenses and their timing has to occur while planning the goals of the organization and its organizational structure.

The basic sources of revenues will most likely be rental income, development fees, revenues from other programs and possibly revenues from the sale of real estate. The detailed calculations of these income categories are included in housing management and development projects budgets. These revenues or losses will be reflected in the operating budget as a fund transfer.

Revenues may also be derived from such other sources as fund raising, grants, subsidies, fees for services, and interest income.

### **Development Project Budget**

This module contains categories of expenditures associated with the realization of development projects. A project feasibility model is available to assist in determining the project budget. Development budgets should be linked to the operating budget to reflect staffing inputs and the resulting revenues. In the case of a building project, it is important to base the data used in the financial model on the detailed schedule of work and development cost estimates. To plan effectively when financial resources are required, it is necessary to prepare a time schedule of investment expenditures, a cash flow analysis for the development project.

A computer project feasibility model is available to assist in the development project planning which is discussed in greater detail in Chapter 11.

The project development expenditures can be divided into four categories:

1. Land
2. Infrastructure
3. Direct construction costs
  - Site preparation
  - Earthworks
  - Below grade
  - Shell (raw state)
  - Interior finishing works and installations
  - Facade
  - Roads and landscaping
4. Indirect costs:
  - Design related
  - Construction supervision
  - Preparation of financial analysis and credit applications
  - Marketing
  - Project administration

The categories listed above can be modified to create a more detailed plan or be used as presented. To enable presentation of the data in such a summary format, it is necessary to go through the detailed planning and cost estimation process.

### **Housing management budgets**

The housing management fund will consist of budgets for individual buildings or groups of buildings, perhaps according to ownership. If third party property is part of the management portfolio, each property will have its own budget. A project developed by the TBS will have an operating pro-forma as part of its feasibility analysis which will serve as the ongoing management budget.

To estimate rental revenue, two variables need to be identified: the number of flats to be rented (or area in square meters) and the rent amount (or rent per square meter). The first parameter should be easy to determine. Determining rent is more complicated because it is either a factor of the development costs or determined by the rent policy of the gmina. There might be a case where planned rent would be lower than that estimated in the project cost calculations. In that case the organization would somehow have to cover the cash deficit. In a process of estimating rent revenues it is also necessary to consider factors such as the timing of rent receivables, vacancy and rent loss allowances. In estimating the indirect costs of management one should consider items such as: the cost of management, current repairs, and payments to a renovation fund. The cashflow necessary to cover the cost of utilities such as water, sewer, heating and trash removal must be accounted for in the budget.

### **Sources of funds**

One of the basic requirements for the organization's existence is its ability to provide funding for operations and investment projects.

Basic sources for funding the organization and its investment projects include:

1. cash paid or in kind contributions made by the shareholders of the organization
2. subsidies / donations received
3. preferential and commercial credits
4. deposits made by future tenants
5. payments from the commercial sale of flats and other real estate
6. other funds of the organization.

It is important to ensure that the amount of capital raised by the organization is sufficient to cover all the planned expenses, leaving an adequate reserve for unexpected costs such as an extended development schedule or increases in development costs. Risk exposure is also affected by the capital structure of the organization. The amount of the organization's own funds invested influences the operating costs and the ability to raise capital from other sources. On the other hand, raising too much capital or raising it too early might result in unnecessary costs.

### **Debt service plan**

To evaluate financial results of each project, it is necessary to prepare separate financing plans for each. At the same time, however, a summary table showing of all the credits taken or planned to be taken by the organization should be developed. It should include data such as the amount and timing of receipt of credit and a detailed schedule of repayments, including the amount of principal and interest in subsequent periods.

The credit repayment schedule must be based upon assumptions as to the interest rate during the repayment period. For example the interest rate can be tied to the projected inflation rate, adding or subtracting an appropriate margin.

## **Financial statements**

Project pro forma financial statements are usually prepared for the period of 3-5 years as it is difficult to estimate critical parameters for a longer horizon. For projects with long investment lives like TBS rental housing, it is necessary to use a longer planning horizon (even 10-20 years). Lenders usually require financial projections at least for the term of the loan although this is not required by BGK.

Another important factor is the level of detail used in the financial model. More detailed data are required for the initial period (1-2 years), when the projection is prepared on a monthly or quarterly basis. This initial start-up period is critical for the organization, as most activities affecting financial performance such as building the organization, investments, and raising capital occur during this time. It is also very important to ensure that financial liquidity is maintained. For later periods, the financial projections may be prepared on an annual basis.

Financial statements have three elements: the income statement, balance sheet and cash flow statement.

### **Income statement**

The income statement summarizes all the revenue and expenses of the organization.

### **Balance sheet**

The balance sheet is the financial statement of second importance for the organization. It includes data about all assets owned by the organization (assets) with all sources of its financing (liabilities).

Based upon data presented in this statement, it is possible to evaluate the organization's property structure, degree of financial leverage and effectiveness in managing receivables and payables.

### **Cash flow statement**

The cash flow statement is the most useful in evaluating the performance of the organization. It includes all the expenditures and sources of cash to cover the expenditures combined from the fund budgets. Cash flow statements can be used for:

- determining whether a project will generate enough revenues to cover operating costs and investment expenditures
- determining the cash position of the organization in future periods
- determining in which period the organization or project will start generating positive cash flow
- more accurate determining working capital needs
- detailed planning of use of resources.

Below are the general formats for the financial statements.

**Income Statement**

Income statement	1997	1998	1999	2000
Revenue:				
Rent				
Other revenue				
Operating costs:				
Salaries with benefits				
Rent				
Materials and energy				
Telecommunication				
Business travel				
Services				
Property insurance				
Promotion				
Depreciation				
Operating profit				
Revenues from the sale of assets (flats,				
Cost of assets sold				
Financial revenues				
Financial costs				
Extraordinary profits				
Extraordinary costs				
Gross profit				
Income tax				
Net Profit				

## Balance Sheet

Balance sheet	1997	1998	1999	2000
Assets:				
Fixed assets				
Tangible assets				
Land				
Vehicles				
Intangible assets				
Financial assets				
Working capital				
Inventory				
Materials				
Trade goods				
Receivables from products /				
Other receivables				
Trade securities				
Cash				
Interperiod settlements				
<b>TOTAL ASSETS:</b>				
Liabilities:				
Shareholders equity:				
Share capital				
Reserve capital				
Assets revaluation				
Retained earnings				
Reserves				
Long term liabilities				
Bank credits				
Other liabilities				
Short term liabilities				
Bank credits				
Other liabilities				
Interperiod settlements				
<b>TOTAL LIABILITIES:</b>				

**Cash flow statement**

Cash flow statement		1997	1998	1999	2000
Cash from Operations					
	Revenues				
Other income					
	Financial income				
	Income from the sale of assets				
Working capital adjustments:					
	Change in receivables				
	Change in inventory				
	Change in reserves				
Investment and financing activities:					
	Purchase of assets				
	Investments pending				
	Capital contribution				
	Credit taken				
Cash flow before debt service					
Debt service:					
	Principal				
	Interest				
Net cash flow					
Cumulated cash flow					

## 5. LEGAL AND ORGANIZATIONAL FORMS OF TBS'S

### CHARACTERISTIC FEATURES OF VARIOUS LEGAL ENTITIES

The Act on Selected Forms of Support for Housing Construction provides three legal forms for the establishment of TBS:

1. limited liability company
2. joint stock company
3. cooperative of legal entities.

Each of the above mentioned legal entities may exist in various forms, have varied shareholders or members, amounts of capital and scopes of activities. TBS founders must determine which form will be the most suitable to carry out the mission of the organization in the best interests of its owners and clients. Below is a discussion of the merits of each legal form. Sample statutes for a limited liability company and joint stock company are Attachments 5 and 6. (attachments in Polish version only)

#### Limited Liability Company

A limited liability company is a legal entity, established to undertake economic activities. The principles of its establishment and operation are defined in the Commercial Code. A limited liability company may be established by one or more individuals or legal entities.

The shareholders contribute the initial capital that should amount to at least PLN 4000. The initial capital is the sum of contributions declared by partners in the form of cash contributions and contributions in kind. The maximum amount of capital is unlimited. The decision on the amount of capital is determined with consideration of the following factors:

- financing needs based on the scope of TBS activities to allow for efficient "start-up" operations;
- credit worthiness .<sup>3</sup>

Contributions in kind may be tangible items or real estate. From the point of view of the TBS scope of activity, a contribution in the form of land or buildings may be very significant.

Liabilities are held against the assets of the company. The company shareholders cannot be liable for the company's obligations. The only exception are liabilities to the State Treasury for unpaid taxes which, in case of a company bankruptcy, can be collected from the private assets of the shareholders.

The controlling bodies of the TBS having the form of a limited liability company are: the general meeting of shareholders, Supervisory Board and Management Board. According to the Act, a Supervisory Board is appointed irrespective of the initial capital and the selected legal form. The Supervisory Board members may include the representatives of shareholders and the gmina or gminas where the TBS functions. A gmina has the right to appoint a member to the TBS Supervisory Board even if it is not a TBS shareholder.

A limited liability company is a legal form that enables fast and effective amassing of capital necessary for TBS activity. The procedures for its establishment and management are simple.

## **Joint Stock Company**

Similarly as in the case of a limited liability company the Commercial Code provides the legal basis for the activity of a stock company. A joint-stock company has legal status.

To establish a joint stock company there should be at least three founders, except in the case when the State or a local government is a founder of the company. The shareholders shall not be personally liable for the company's obligations. Liabilities are held against the assets of the company.

The initial capital of a joint stock company must be at least 100.000 PLN and may be contributed either in cash or in kind such as real property or other fixed assets. The quantity and kinds of shares must be specified as well as rights to the company's income or distribution of the company's assets. Shares issued in return for a contribution in kind must be restricted stock until the general meeting of shareholders has approved the financial results for the second fiscal year. Until then, they can be neither sold nor pledged.

Share capital may also be raised by means of a public offering according to procedures defined by the Commercial Code and other relevant regulations.

Similarly as in a limited liability company, the Supervisory Board shall be appointed irrespective of the amount of the share capital. Attachment 3 (Polish version only).

## **Cooperative of Legal Entities**

The principles of establishing a cooperative are described in the Act on Cooperatives issued on September 16, 1982. According to the statutory definition, a cooperative is a voluntary association of an unlimited number of changeable members and share funds, which conducts economic activity in the interest of its members.

A TBS may be established only in the form of a cooperative of legal entities which excludes participation of individual persons. In this case there must be at least three founders. Each cooperative member is obliged to declare one share unless the statute provides otherwise. The statute may also allow members to contribute assets to the cooperative including in-kind contributions.

Generally each member of a cooperative has one vote irrespective of the number of shares. However, the statute of a cooperative whose members are exclusively legal entities, may provide for a different rule for the allocation of votes to members. In such cooperatives, the number of votes may depend on the number of contributed shares.

The cooperative is liable for its obligations with its entire property. A member of the cooperative is not liable for the cooperative's obligations to its creditors but participates in covering the loss to the amount of the declared shares.

Similarly as in the aforementioned legal forms, the cooperative appoints a Supervisory Board which supervises and controls the activity of the cooperative.

## **ADDITIONAL FACTORS INFLUENCING TBS LEGAL FORM SELECTION**

The review of TBS applications submitted for registration to the Ministry shows that the legal form most often used is the limited liability company. It has the following advantages:

- relatively simple registration procedure;
- low required minimum initial capital;
- clear and simple regulations.

Another feature of a limited liability company is a closer relationship between owners and company activities. During its lifetime, a joint stock company is governed by more sophisticated procedures regarding stockholders than a limited liability company, but less cumbersome procedures (from the point of view of the company management) concerning the owners' supervisory powers. More often than in the limited liability company, reporting requirements in the joint stock company involve additional expenses (e.g. the cost of newspaper releases, cost of production and printing of prospectuses, costs to hire a notary to make records of the meetings of shareholders).

Both a cooperative and a joint stock company have at their disposal procedures which enable them to operate efficiently irrespective of how many owners they might have. In the case of a cooperative there must be a direct link between its activities and the interests of its members. A cooperative has been designed as a legal entity which does not have to have substantial assets and whose procedures are used more to protect various interests than to gather, generate and make use of substantial capital.

The procedure for replacing cooperative owners is cumbersome, a weakness of this organizational form. Shares in a cooperative are nontransferable and accepting a new member requires a resolution by the cooperative authority (identified in the statute as the authority with the power to accept new members). As cooperatives can be established by a minimum of three owners, due to the small number of corporations with possible interest in creation of a TBS it is likely most will have just three members.

An important advantage of joint stock companies is their ability to gather capital through the financial market. Apart from that, if there are no statutory limitations, shares of joint stock companies can be easily traded, useful for generating TBS capital. Use of the capital markets by a TBS does not seem likely in the very near term due to the high capital requirements and the high costs justifying relatively large issues. However, as TBS evolve their ability to compete for market financing will be enhanced by good business practices. A more mature system could produce project packaging for multi-project bond issues for instance.

## **TBS Capital**

For each type of legal entity there is a minimum capital requirement. The amount of initial capital should first of all depend on organizational needs and the projected scope of activities. The organization's capital should be large enough to provide the possibility of gathering additional capital from other sources.

In the case of a newly-established TBS, the ability to gather its capital is the basis for its activities TBS can use resources provided by a gmina, other legal persons and individuals. The ability to attract shareholders should be considered from the point of view of benefits for various groups of owners. As a not-for-profit organization, dividends or profit will not be provided to partners or shareholders.

For municipalities, the interest seems to be rather clear. It lies in activities which help to satisfy the housing needs of local community members in a way which is not only much less reliant on the gmina's budget than municipal housing development but also produces many other economic and public benefits.

For individuals, the interest could be defined as the opportunity to meet their housing needs. This applies especially to that group of households which meet all statutory eligibility requirements to rent housing units from the TBS and who possess sufficient funds and income to pay the deposit and monthly rental payments.

It is more difficult to determine the interest of legal entities, other than gminas, to invest in a TBS. Private companies usually invest where they can obtain a favorable return on their money. Corporations with a definite interest in ownership of the TBS could include mostly construction contractors commissioned by the TBS to carry out projects without organization of tenders in cases when no public funds are involved in such investments or rehabilitation. Certain interest in accessing a TBS could be also identified for housing cooperatives and companies which, through the participation in TBS, could acquire the right to allocate housing units to their employees. Housing cooperatives may also serve as the primary developer as partners or shareholders in the TBS. Moreover, as the capital market becomes more mature, an interest of various capital groups and banks should develop, related to the perspective of profits from owning and trading in TBSs' stocks or mortgage-secured bonds.

Apart from its equity, TBS should be able to attract other resources to finance its projects. An important factor is the possibility of using loans from the National Housing Fund (KFM), particularly those offered at preferential rates. The amount of such loans increases in proportion to the aggregate equity available to a TBS

It should also be noted that many TBS projects are not financed exclusively by its own capital and loans. It is also possible that third parties or the tenants themselves may participate in the development costs.

The form of a co-operative of corporate persons precludes the possibility of soliciting capital from private investors and narrows the membership to municipalities and other corporations whose interest in the access to a co-operative TBS may be even less than in a TBS formed as a commercial company.

## 6. SELECTING TBS ACTIVITIES: PROGRAMS AND PROJECTS

The enabling legislation allows a TBS to undertake a variety of activities in the housing field with primary emphasis on the development and management of rental housing affordable to moderate income families. Other allowable activities, all aspects of real estate management and development include:

- purchase of residential buildings,
- repairs and rehabilitation of residential rental buildings,
- leasing commercial premises in TBS buildings,
- managing residential buildings owned by other parties by contract, and
- carrying out other activities related to the construction of housing and accompanying infrastructure.

The description of allowable activities is broad. What constitutes "activities related to the construction of housing and accompanying infrastructure" is open to interpretation. A reasonable test of an allowable activity is whether it furthers the primary mission of the TBS. All activities must be included in the TBS bylaws or articles of association and approved by the President of the Housing and Urban Development Office, the final arbiter of the activities allowed under the Act.

The choice of which of the above activities will be conducted by a newly established TBS is limited by existing opportunities and needs in the targeted area of operation, both in terms of potential activities in the local housing market and the potential for the TBS to compete successfully for these tasks. For instance, for a TBS to become active in building rehabilitation, there must be partners interested in contributing such housing resources in kind or at a reasonable cost. Similarly, the management of communal housing stock is dependent on the willingness of gmina leaders to engage external managers. Another important consideration is the ability for various activities to generate surpluses for the TBS which may be used to subsidize the primary statutory activities or to provide equity for future housing development.

A TBS may start with one activity with a strategy to expand into other markets over time. Undertaking any business activity should come as a consequence of an external environmental scan and a market analysis as well as an internal scan of organizational resources to develop informed business performance expectations. As local conditions, needs and opportunities will vary, so will the activities of the TBS. Below are some issues to be considered in defining real estate management and development activities.

### HOUSING MANAGEMENT

Even if a TBS is primarily interested in housing development rather than management, it will require a management strategy for its assets, a key requirement for long term credit. Whether the TBS hires experienced management staff or contracts out the management service, some housing management expertise in the TBS is necessary for service oversight.

Some TBS, however, are being formed with housing management as their primary activity through receipt of management contracts for communal stock from the municipality or a transfer of communal stock ownership to the TBS. Recognizing the need to improve housing management services, several cities are establishing TBS primarily to provide an alternative to city housing management. Some organizational models, such as Srem and Radom, are transformed city housing management entities which manage 100% of the communal stock. While this model does not introduce competition into the communal housing

management system, establishing a new organization provides the possibility to introduce management practices and principles employed in a market economy that should improve management efficiency and effectiveness.

In brief, these principles and practices include, among others, use of:

- performance indicators
- worker incentives
- concept of fee for services
- cost recovery
- emphasis on tenant relations and tenant representation in management decisions.

An extensive discussion of good management practices is beyond the scope of this text, however, it is important to note the importance of community and tenant cooperation. Management practice should strive to increase participation of residents in overall management and management decision making as involved residents will frequently take better care of the buildings in which they live. Additionally, if there are plans for tenant participation in developing and financing renovation strategies, establishing good tenant/management relations in the initial stages of operation will facilitate this process.

The emergence of alternatives to municipal real property administrators provides the opportunity to compare service provision and ultimately should have a beneficial effect on the price and quality of services offered by various administrators. There will be a growing market for professional real estate management services as consumers learn the value of good property management in reducing building operating costs and conserving or even increasing the value of real estate. TBS may seek their niche in this growing market.

It is important to consider that efficient housing management services are affected by economies of scale. With controlled rents, management fees are relatively low and a small number of units under management will usually not provide sufficient revenues to cover basic operating costs. The budget cash flow model discussed in Chapter 4 should provide assistance in determining the "break even" point of the minimum number of units for efficient management and the financial comparisons of self management versus contracting out.

Management of privately owned stock including housing associations may be a profitable venture for a TBS. The TBS may also target their management services to social housing or special populations which require greater social service interventions, a growing market in the west. An example of targeting populations is Krak System TBS which focuses on provision of housing and housing services for the handicapped.

The TBS should take care to insure a favorable management contract. In particular, when a TBS, wholly owned by a gmina, manages communal housing resources, it may be expected to provide services at prices below actual costs. This which will of course affect the overall operations of the TBS. Forced reduction of the TBS's property management revenues can also result in a reduction in the amount or quality of housing management services with the inevitable harmful consequences for tenants and the housing stock. Before entering into management agreements with the gmina, a careful analysis of the physical and financial condition of the stock and terms of the agreement should be made to determine whether it is a viable proposition. Revenues from commercial units or subsidies for repairs may be necessary to cross subsidize the regulated rents received for housing units.

#### **HOUSING DEVELOPMENT/RENOVATION SERVICES**

The Act allows TBS to engage in a range of housing development, construction and rehabilitation services to fulfill their primary mission and as services for fees:

- housing development;
- house or related infrastructure construction contracting;
- general construction contracting (related to construction or renovation of residential houses or their associated infrastructure);
- other services related to housing (land surveying, designs, research work, etc.);

This range of activities allows a TBS to serve as a community development corporation, which can manage mixed income housing development projects, land development, or complex neighborhood revitalization, particularly as KFM funds are now available for rehabilitation. TBS are developing market rate or sales housing, of course without the use of preferential credits. Whether they are able to engage in economic development activities as part of a neighborhood revitalization is still unclear, but it can be argued that this is a related function which may contribute to the less profitable housing activities.

As described in Chapter 13, not-for-profit housing organizations in comparison countries, frequently are established to undertake building renovation or even complex neighborhood revitalization. This complex renovation process is designed to improve the overall physical and economic viability of the neighborhood. While some tenants may choose to move, others will participate in the revitalization process. Szczecin TBS is organizing with this type of activity in mind including new construction for replacement housing.

Depending on the skills and experience of TBS staff and the local market, selling development services could provide a source of income for the TBS. The TBS with strong project pre-development and development skills and excess capacity, may wish to market their services to other TBS with less capacity in these areas. Several TBS have sought foundation funds to serve as "consultation points" to stimulate the development of TBS in other municipalities. Śrem, Szczecin, Poznan TBS and Krak System are some of the TBS's preparing to serve as consultation points. Most evolved NFP systems have technical support organizations that serve smaller more locally based not-for-profits. Usually they receive government support, however, in Poland as the TBS system grows over time there may be sufficient effective demand from the TBS sector to support these services.

TBS should organize themselves to be competitive in their selected areas of activity. As a newly formed organization, competition with other professional designers, researchers, developers or real estate specialists may initially be difficult, but it is possible for the TBS to find its niche and to be competitive in the private market.

As a not-for-profit organization, the TBS may be granted some privileges by the municipality such as: exclusive rights or access to funding or service contracts, acquisition or use of specific goods at a lower cost, or exemption from mandatory tenders. The gmina may wish the TBS to assume functions carried out by the municipality or housing management companies such as tenant organizing, apartment exchange bureau, building repairs, or a public information campaign on housing financing opportunities. However, special privileges or access should be limited to areas, both technical and geographic, in which there is little private sector interest. In areas of activity of interest to the private sector, it will not benefit the gmina, and ultimately the TBS, to limit competition.

TBS may also be supported by gminas to be a "pioneer", such as undertaking housing development in a neighborhood where no other developer is active, stimulating market interest which can lead to the entry of other developers. Although the process is beneficial to local housing development and general economic growth, the pioneering role does not automatically place the TBS at an advantage to the newcomers who may follow. To compete successfully, the TBS should map out its evolution in its early stages to create and maintain a high level of professional performance.

## 7. MARKET ANALYSIS

A market analysis is one of the basic elements of a business planning process. Marketing may be defined as the art and science of identifying a need or problem and then satisfying/resolving it with a particular product or service. However, a superbly defined product or service and a clearly identified need for these products and services will not ensure success. Market research is necessary to determine the effective demand, that is the targeted client base who will both desire and be able to purchase the proposed products and services that were identified during the environmental scans.

As the housing products of the TBS, the rental apartments, have a targeted income group and there is perceived need for the housing, it may seem unnecessary to conduct a client assessment. However, while extensive research may not be essential, at least asking the questions cited below will increase market understanding and improve product planning and development.

The research and analysis conducted through the external scan during the strategic planning phase, if done properly, should provide the general product and service orientation for the organization. In essence, it is a general market analysis which will then be further refined in the program and product development phases. The environmental scan will provide much of the basic demographic, economic and housing system information required in a market analysis for most types of housing services or products to be offered by the TBS.

### Description of market area

- Physical and environmental characteristics of the area and land planning or zoning regulations, commercial and social infrastructure
- The local housing situation; number and type of dwelling units, their density, technical condition and equipment, age, ownership structure, rental rates and sales prices,

### Description of potential client base

- The current and projected demographic information on the gmina and its surroundings (region), with special attention given to the structure, size and formation of households, population, age profile and marital status,
- An analysis of the local employment market by sector and base industries, its present state and projections for the next few years,
- Limited information on average household income
- Social factors such as attitudes, behaviors, and preferences

### Description of competition

- New construction trends and absorption,
- Companies active in the housing market,

A market analysis, conducted for all proposed products and services, should strive to define and target the TBS client base and the effective demand for proposed TBS products or services. This information should be

useful in the product design and later in the marketing strategy. For each product or service a market analysis should determine the following detailed information:

1. The client base.
  - Who are the clients?
  - What are their specific needs or wants?
  - How do the clients make their purchasing or service selection decisions?
  - How is the proposed product perceived and valued?
2. The industry trends.
3. The competition.
  - The number of competitors,
  - Their relative strengths and weaknesses: reputation, market share, financial status,
  - Their products relative to TBS's: quality, market position,
  - Their plans for the future.

The steps suggested above may help TBS to avoid some common failures in market analyses such as:

- failing to understand the difference between a market and a need,
- failing to perceive market trends,
- assuming the needs and preferences of clients without confirmation,
- failing to analyze the competition, its segmentation, market share and prices,
- inaccurately defining the market area, usually too narrowly.

## **MARKET ANALYSIS FOR A DEVELOPMENT PROJECT**

Although market analyses are typically a part of rental project business plans in developed markets, whether it is essential for a TBS contemplating a project of approximately 30 or 50 units may be questioned from a short term perspective. However, the long term nature of the investment requires that the project be planned with an eye to the future as well. As housing options increase, preferences are becoming more evident. TBS projects should reflect these trends to ensure future viability.

Further, housing markets vary from one locality to another. Units easily leased in Warsaw may not find willing tenants in Goldap (and the reverse); thus, replicating a successful project in a different environment will not necessarily bring positive results. Local assessment is necessary.

### **The Client Base**

The targeted client base is defined by the income limits cited in the Act. This client base generally consists of middle income families found in the mid 3rd to 5th income quintiles or groupings (based on division into five groups) in most gminas. It is further defined in the "Recommendations Concerning Statutes and Charters of TBSs" issued by the Office of Housing. „Apartment allocations should consider the locally determined housing priorities and the nationwide priorities as follows: young families with no real prospects to buy their own apartments, families with many children living in substandard housing, and families forced to relocate for employment.”

Although these characteristics suggest families with little choice, research is still essential to plan the development to meet their specific needs in terms of size of unit and amenities. Depending on the agreement with potential shareholders or investors, the TBS may allocate certain units to the gmina or local businesses for which they will be selecting tenants.

Particularly in its first projects, the TBS should be able to quickly develop a list of prospective tenants. One way to create such a list is to conduct a survey of families potentially interested in renting apartments from the TBS, together with information on their incomes, the composition of households, age of children (in relation to the demand for services), employment and employers, preferences concerning the sizes and location of units. An important question is the amount of cash families can allocate as a down payment or deposit, whether they actually can tap other sources of funding and what those sources may be. It is the TBS's task to prepare a list of buyers as this is as one of the attachments to a BGK loan application.

Those surveyed may be drawn from gmina housing waiting lists, cooperative waiting lists or from responses to a press solicitation.

An indispensable piece of information are tenants' expectations concerning the price, the size and the finishing standard of the units. This information will make it possible to answer the basic question, whether the project is realistic from the financial perspective, i.e. whether units can be built at the targeted cost.

Knowing the ultimate group of tenants and having a concept of the project, one can try to verify the demand through pre-renting. This form of market test can be applied at the pre-design stage, but before the construction-related documents necessary to obtain the building permit are ready. Direct contact with potential tenants will provide feedback either confirming assumptions or providing information from which to make appropriate adjustments or to develop other alternatives. This can be accomplished through surveys, focus groups or random interviews.

The market analysis should also develop projections of future trends in population and household formation, and employment trends, important for anticipating future demand for the product. Attachment 16 is a questionnaire for persons interested in obtaining a TBS apartment which will allow evaluation of housing preference and effective demand for TBS units. It also includes a form to determine income eligibility. (attachment in Polish version only)

### **Industry Trends**

A review of the activities in the local real estate market provides another source of information. A survey of recent developments will indicate the range and desirability of product types on the market, preferred locations for new development and price variation by product type and neighborhood. Banks may provide information on the terms and use of housing credits locally. Local real estate agents have information on the sales market, both of existing housing and new construction.

### **The Competition**

The lease terms of the rental units developed by the TBS will fall between municipal rental stock and the private rental market. As municipal stock is usually difficult to access and the private market is often limited and considerably more expensive, likely competition would come from other TBS if they exist or cooperatives that are developing "rental coops" (spdzielnie lokatorskie which are rarely built now ) or TBS rental buildings. If the project requires more tenant capital investment than the 10% down payment, there may

be competition from moderately priced sales units, particularly if interest rates continue the present rate of decline.

A review of local developers and their present and planned development projects according to type and price will assist in assessing the market trends and absorption. Evaluating both their products and level of service, their internal operations and their reputation will aid in determining the actual or potential market niche for the TBS.

The market analysis, should provide answers to the questions posed above. In general, it includes information on the preferred and avoided locations, types of development, size of units, functional patterns, prices, and other preferences of potential tenants.

Attachment 17 (in Polish version only) is a form that can be used to compare the TBS project with other new developments, useful for analyzing potential competition.

## 8. MARKETING STRATEGIES

### THE BENEFITS OF A MARKETING ORIENTATION<sup>2</sup>

Over the years there has been an increasing focus on marketing by not-for-profit organizations. As government and philanthropic funding declined and the practice of leveraging private sector participation in public spirited projects increased, effective marketing strategies grew in importance to the success of the not-for-profit housing sector.

Marketing is often equated with selling, but it is a much broader activity serving broader aims. Philip Kotler in Marketing for Non-Profit Organizations, defines marketing as „a management process directed at satisfying customer needs and wants through an exchange process.”<sup>3</sup> The market analysis should identify potential markets and TBS consumers. It is important to recognize all types of „consumers” which include potential sources of funds such as foundations and other donors, BGK and other financing institutions, and local and state government institutions. Organizations with strong market orientations, tend to define their objectives more in line with consumer needs and demands which results in increased consumer satisfaction, increased consumer participation, better attraction of market resources, and greater efficiency through a clear focus. Peter Drucker succinctly described „Marketing as being so basic it cannot be considered a separate management function....It is the whole business seen from the point of view of its final result, that is, from the consumer’s point of view”.

Often the major competitive edge of not-for-profit housing organizations is their customer orientation which leads to greater public participation and improved services in housing management or important selection of low cost amenities in a housing development which make it more attractive than other affordable housing projects.

The organizational /business planning process described in this document strives to introduce a market orientation in the early formative stages of TBS. Applying the concepts and practices suggested should facilitate effective program, product and service design for a defined consumer base in a specified geographic area as well as the organizational structure necessary to produce and deliver the products. It should result in an understanding of the competition and how the TBS product is different based on price, service, quality or image. It should clarify the details of the four critical elements known in the marketing industry as the „marketing mix”, essential for producing a marketing strategy.

### FACTORS IN THE MARKETING STRATEGY

„The marketing strategy is based on the interplay of the „marketing mix” consisting of four elements:

Product: The product or service to respond to market demand.

Price: Offering price of the product or service

---

<sup>2</sup> Adapted from The Complete Guide to Nonprofit Management, Smith, Bucklin & Associates, John Wiley and Sons, Inc., New York, 1994.

<sup>3</sup> Smith, Bucklin & Associates, The Complete Guide to Nonprofit Management, John Wiley and Sons, Inc., New York, 1994, pg. 94.

- Place: Targeted market area for the service or product and method of delivery
- Promotion: Methods used to communicate the availability and desirability of the product or service to the market."<sup>4</sup>

These four components operate in an integrated fashion. The type of product affects price and the method of delivery. Price, place and product will affect the promotion plan. Most TBS will be managing housing and developing regulated rental units, however these products and services may be differentiated by what the TBS does to have a competitive edge or a unique image. A TBS may identify its primary market as young families and will design the buildings accordingly. The rent or price of the units are regulated but the amount of development costs paid in by end users beyond the 10% downpayment will create some variation on actual price. The key for TBS is to ensure that the price exceeds the cost of supplying the service or that there are resources to subsidize the service or product.

### DEFINING AN IMAGE

Marketing strategies usually focus on two major areas. The first is image, both of the TBS organization and its services and products. Image goals describe the manner in which the TBS desires to be viewed by the public. Image is particularly important for new organizations, new business ventures, and restructuring organizations. All TBS will fall into at least one of these categories. Image projection should focus on the appropriate client group(s). Attracting inappropriate clients will waste time and resources, particularly in the process of evaluating prospective tenants. In early discussions of the TBS program, the market niche of the TBS rental housing was mistaken as low income or social housing. Today, it is unclear what the public perception of the „market niche” of TBS housing is, but each TBS has the opportunity through a marketing strategy to project the most favorable image of its organization, products and services to the appropriately targeted audience(s).

The image to be projected should reflect what the organization will do both in the short and long term. Presenting anticipated future capacity today is the beginning of marketing products and services to be delivered tomorrow. The image should reflect how the TBS stands out from the competition- what is its competitive edge.

### MARKETING OBJECTIVES

The market discipline of the organization is an important image factor. The standard range of market disciplines are: a low cost producer, provider of high end and innovative products or provider of extraordinary service. TBS housing products must be efficiently developed, but TBS may have a range of market disciplines depending on the levels of service and product diversification. Some TBS may decide to develop housing to meet a range of income levels and preferences or to provide a range of housing management services from the least expensive most basic to enhanced services at a higher cost.

New TBS will generally be newly approaching the market or engaging in market development as it also conducts its program development. Older organizations, such as TBS transformed from PGM, may seek to increase market penetration or diversify programs to reach new markets. A TBS with success in developing and managing rental housing in one municipality with a limited market may decide to expand its „place” to

---

<sup>4</sup> Ibid, pg. 106

surrounding cities. Or, in the example above, TBS may choose to diversity services in its local market. How the TBS decides to interact with the market as it develops its programs is its marketing objective.

	Present Programs	New Programs
Present Markets	Market Penetration	Program Development
New Markets	Market Development	Diversification

from the „Complete Guide to Nonprofit Management”, Smith, Bucklin & Associates

A second objective of the marketing strategy, is the measurable target(s) to be achieved as a result of the marketing. A simple example is a promotional campaign to lease a 40 unit TBS building within a certain time frame or a campaign to obtain x number of management contracts for privately owned buildings.

The promotion strategy will depend on the product, the experience of the organization and the stage of readiness to purchase by the consumer. „There are four main types of promotion that may be used individually or complementarily: advertising, personal selling, direct mail and publicity which are directed at consumers in varying stages of readiness to purchase: awareness, comprehension, conviction and purchase. „<sup>5</sup>

A new TBS initially will want to introduce itself to potential consumers, to develop its name recognition and promote an image. Advertising, which is usually paid promotion, is a common way to do this. Low cost advertising may be provided by local newspapers or magazines to the TBS, as a not-for-profit organization. Posters, public service announcements, information in local church or school bulletins are some low or no-cost vehicles to be explored.

Direct mail is usually sent to a more specifically targeted group and can provide much more in depth information about the organization and products. It is a relatively inexpensive way to contact potential consumers, as long as you have good mailing lists. It is a technique that works best with persons who have some familiarity with the TBS. Newsletters are often included in direct mail campaigns.

Personal or direct sales are tactics employed to convince potential clients to rent a unit or accept management services. Similarly requests for financing and funding are usually conducted in person. This technique is labor intensive, requiring good presentation skills, a well developed presentation and time. Some examples are organized meetings or speaking engagements with community or civic groups. Trade fairs and special events provide opportunities for personal interaction. Attractive low priced fund raising events is another way to attract personal contact.

Publicity is a form of free advertising. Sending out press releases, writing articles, editorials and letters to the editor of local papers and participating on local television shows are all ways to promote your organization broadly for little or no cost. One caution is that the media does not always present material accurately, completely or in a positive light. However, this is a good way to provide consumer education on the changing

---

<sup>5</sup> Ibid, pg. 111.

nature of Poland's housing sector including the emerging TBS sector and the changing range of housing options, most that require greater financial participation from residents.

These techniques may be used in various ways. A few points in determining your promotional techniques:

- Information is absorbed in different ways which advises the use of several techniques to reach the audience
- Messages should be repeated over an extended period of time
- Consider the audience, how it receives information, where and how it lives
- Use resources creatively and consider organizational capacity when selecting marketing techniques
- Success from marketing takes time, don't give up too soon.

#### **BUDGETING AND DRAFTING THE MARKETING PLAN**

The availability of resources for marketing will affect the marketing plan, however marketing is a necessary step in the implementation of organizational goals and objectives and a critical input in the „sales” of products and services. Service, program and project budgets should have funds for marketing built into them. Similarly, responsibility for marketing should be clearly assigned with attention from the director and the Board. Finally, the plan should include a means to evaluate the cost effectiveness of the overall strategy and specific techniques.

The written marketing plan should contain the following elements:

- Description of the target audience.
- Analysis of opportunities and problems
- Measurable objectives and strategies
- Budgets
- Evaluation process.

## 9. RISK ANALYSIS AND CONTINGENCY PLANNING

Risk analysis and contingency planning is simply thinking in advance about potential problems or barriers to success and developing strategies to deal with them if they arise or alternative scenarios that avoid them. Good planning is the best tool to minimize risk. Top management consultants often quote the adage: „Organization or business leaders don't plan to fail, they fail to plan”.

This organizational/business planning process incorporates risk assessment in each phase beginning in the strategic phase, thus mitigating some threats/risks. Incorporating risk analysis and contingency planning or remedy creation as an ongoing process in your organization will increase effectiveness and sometimes allow for risks and threats to be turned into opportunities. After risks have been identified, the nature and likelihood of each should be described. Consequences and impacts of the risk on the organization, its image, finances and production should be fully outlined to allow for the fullest possible exploration of mitigating strategies and/or contingency plans.

One risk assessment method is to rank all identified risks on a scale of 1 to 5 with 1 being a highly detrimental risk. The most detrimental should be cited in the business plan with a range of remedies including:

Evasive Actions:            Actions to avoid the risk or minimize its impact on the project.

Alternative Actions:        Alternative strategy in the event the risk cannot be avoided.

Fall Back Actions:         Options in the event the risk is a serious threat to the organization:

- Reduce size of the venture
- Change goals or objectives
- Terminate the TBS.

Successful risk analysis and contingency planning rely on thoroughness, a clear understanding of the TBS venture and flexibility.

### TYPES OF RISKS

Below is a list of general business risk categories that may apply depending on the activities of each TBS.

#### Governmental

Political risk:                Risks resulting from the dependency on local and state governments which change, may be unstable and could affect BGK financing/local government support. This is a crucial factor in initial organizational development.

Regulatory risk:            Risk of regulations which will negatively affect the goal attainment.

Interest Rate Risk:         This is also a market risk. Changing interest rates may have a positive or negative affect.

---

<sup>6</sup> Adapted from Financial Analysis Manual, Caresbac-Polska S.A., Washington D. C., 1993.

## **Market**

- Marketplace risk: Risks evolving from a rapidly changing demand/need for products and services.
- Industry risk: Risks evolving out of factors/trends affecting the construction, housing management, renovation industries.
- Technological risk: Risks arising from technological trends which may render products and services obsolete and less marketable.
- Concentration risk: Risk that in an evolving market, there may be dominating firms or monopolies such as city housing management entities that control aspects of the market or dominating clients.
- Pioneering risk: Risk resulting from entering/creating new markets.

## **Organization**

- Flawed Assumption Risk: Risks arising from incorrectly projecting or assuming crucial issues such as:
- Staff abilities and potential to attract needed skills,
  - Cash flow
  - Program Costs
  - Scheduling

## **Project**

- Flawed assumption Risk:
- Project cost
  - Cash flow
  - Market demand
  - Scheduling
  - Staff/Consultant

## **10. STATUTE DEVELOPMENT AND APPROVAL**

Statutes are approved by the Office of Housing and Urban Development. The suggested process is to contact the Office for the most up to date information concerning requirements. Attachment 4\* is a copy of the Office guidelines for statute development and description of the registration process. Attachments 12\* and 13\* are sample documents of a limited liability company agreement and a notarial act for a joint stock company.

\*(these attachments are only included in Polish version)

## **11. PROJECT PLANNING AND PREPARATION OF THE BGK LOAN APPLICATION FOR NEW CONSTRUCTION**

Planning for a multi-family housing development project is a complex undertaking. Therefore, a comprehensive discussion of the topic is beyond the scope of this guide. It is assumed that the majority of TBS interested in housing development will have management or staff with experience in project preparation and organization. Thus, this chapter will focus as on several problems related to the specific nature of the TBS or to restrictions resulting from the Ministry's Ordinance and BGK's requirements.

Below is a list of activities to be undertaken for a new investment. Activities of specific interest will be discussed in detail.

### **PROJECT DEVELOPMENT STAGES**

#### **Preliminary Evaluation**

- Market Analysis
- Preliminary Concept of the Project - an assessment of the financial and organizational capacity of the developer
- Site analysis
- Financial feasibility analysis

#### **Pre-Design**

- Project location process - to obtain the decision on conditions concerning the construction and land development,
- Land acquisition and preparation of detailed land survey documentation, inventory of the existing development, study of environmental conditions and everything relating to the protection of the environment, nature and culture,
- Development program detailing the future function and the use of the buildings,
- Program and spatial design concept, address issues of energy conservation and select an architect,
- Preliminary project cost estimate.

#### **Project Documentation**

- Construction design, including land development plan for the entire project site, together with architectural and construction design of the proposed building and, in some cases, a technological design for selected elements of the project,
- All required opinions, agreements or permits, including the building permit together with the approval of the construction design,
- Technical documentation, possibly with the work organization scheme,
- Cost estimate documents.

#### **Contractor Selection**

- Bidding procedure,
- Pre-agreement negotiations and contracts for construction and materials.

## **Final Project Financing Budget and Construction Loan Application.**

### **Preliminary Evaluation**

A feasibility study or analysis is a study of the cost-benefit relationship of an economic endeavor. The steps of the feasibility study are:

1. **The market analysis** discussed in the previous chapter, and
2. **The assessment of the organizational capacity** to undertake the project.

The initial environmental scans on the potential of the organization will have raised the following questions which should be addressed in greater detail at this phase:

- Can the TBS implement the project, operating under its present organizational structure?
- What is the composition of the team responsible for the preparatory work?
- What are the job descriptions of individual team members?
- Do they have the skills and experience necessary to accomplish this kind of project?
- If not; what changes should be made?
- What is the project schedule, including the detailed schedule for preparatory work?

Responses to these questions will result in the establishment of a new team, expansion of the existing team, or the decision to use a private fee developer.

### **3. Site Analysis**

The significance of location to the success of a development project cannot be overestimated. It is most probable, however, that a new TBS will not have much choice in location. Still, in many cases the gmina may offer sites to the TBS to select that most suitable to its needs.

The main elements of a site analysis are the following:

- The legal status (who the owner is, on what grounds one can purchase the land)
- Site availability
- What development is possible from the architectural and urban planning perspective (what kind and size of structure can be located on the lot within the above parameters, depending on the size and shape of the lot (density of development, number of stories, the height and line of buildings, the shape of the roof, required capacity of the parking lot - in large cities - often underground parking is required),
- Possible restrictions set by the Conservator of Historical Monuments, or environmental protection agencies,
- Type of soil - e.g. subterranean water, bearing capacity of the soil, potential to lay foundations or create underground structures,
- The land use history (has the land been chemically polluted, was it a water reservoir or a "wild" landfill before, etc.), the existing buildings on the lot - are they of historical or cultural value, what would be the estimated cost of the demolition work, are the buildings occupied or used for other purposes?
- The immediate environment of the buildings: neighboring buildings, shading, pollution, sources of noise,
- The orientation to light,

- The configuration of the land (slope), trees (location, ages, kinds), microclimate - if applicable (e.g. located below a slope, in a valley, on a hill),
  - Perception of the neighborhood (safety of building and residents, possible additional cost to guard the building or to build a fence),
  - Social infrastructure - schools, health service, police, shops, services,
  - Neighborhood reputation, parks and play areas,
  - Technical infrastructure (sanitation sewerage and storm sewerage, possible allocation of additional power hookups, water line or potable water from a well, supply of gas for heating and for household use - alternatively - possible supply of heat from the city network and the distance from the heating chamber, roads,
  - Road access and transportation, public transport, access by car, parking lot.

Using a uniform site evaluation form to gather information in interviews with appropriate institutions (sewerage, water and heat supply), during field visits and in collaboration with consultants will facilitate data collection. In case of competing site offers, it is worthwhile to keep a well organized register of information on lots, to be able to compare various offers.

Sites in urban centers in which there are historic buildings should be examined carefully. Decisions concerning land development and construction are subject to agreement with the voivodship conservator who may require that the building be contextual in design and dimensions, seriously impeding the ability to meet the unit size requirements. This kind of location may additionally result in increased costs of building foundation and involve the risk of a suspension of construction work pending the completion of archeological excavation in old town centers. Additional problems can be caused by the organization of the construction work and the arrangement of the building site.

The advantage of center city locations is usually the low cost of infrastructure connections and site development, provided that the conditions concerning the land development and construction do not require provision of parking spaces in an underground garage. An additional advantage can be commercial space on the ground floor, the construction cost of which is usually much lower than the market value.

It is advised to make a preliminary architectural and spatial study to confirm the estimated density of the site, and to define programming assumptions. This will provide more precise data on the site of the planned project and thus the estimated costs.

#### **4. The Financial Feasibility Analysis**

The financial feasibility analysis is conducted to answer the following question: does the project under consideration make financial sense and can it be accomplished with all the planned results in accordance with the accepted financial assumptions?

The following elements are required in the preliminary planning stage:

- An estimate of all available resources, an answer to the question of the sources of the development capital.
- The calculation of the budget of the project, an answer to the question: what can be built for the resources actually held in hand; and
- The cash flow projection for the duration of project implementation, to compare the resources in hand with the planned costs in each month, in order to eliminate the risk of the loss of liquidity.

The business plan should include information on potential sources of funding for the project. Commercial premises cannot be financed with the KFM loan. If the project contains commercial premises or garages, the

developer must secure other sources of funding for this part of the project. Beside the TBS's own resources, these could be the down payments by the buyers of units scheduled for sale, and loans from other sources than the KFM.

The cost of constructing the building is determined by multiplying the defined area times the approximate cost per square meter of usable area. Adding the remaining budget items: the cost of purchasing the lot, servicing the land and making hookups, the cost of documentation and other costs of project preparation and administration will provide the total project cost estimate. Comparison of the costs and resources available to fund the project will indicate whether there will be enough resources to accomplish the project. The cash flow analysis is more complex and will be described later.

## **Pre-Design**

The pre-design phase consists of the following steps:

- 1. The acquisition of rights to the land to implement the project** (as well as the decision on conditions concerning the land development and construction, unless it was obtained earlier).
- 2. Preparation of detailed geological and engineering documentation, land survey documents and a list of existing land development elements.** -a study of environmental conditions and protection of the natural and cultural environment.
- 3. Development of a program for the future function and use of the building** - this is a list of the areas and the number of units and rooms. Other assumptions concerning the design should include:
  - Conditions concerning land development and construction (the area of buildings, usable area, number of stories)
  - Preferences concerning technologies to be used
  - Number of staircases and number of apartments on each landing
  - Other preferences of the developer.
- 4. Designing a Program and Spatial Concept.** The objective for the conceptual design is to verify how the proposed design program fits a particular lot. It includes the design of the building, individual unit plans, their size and layouts. While developing the concept, the designer should consider specific characteristics of rental buildings.

The requirements set by the Ordinance as well as a logical approach to minimize the cost of construction causes designers to take defined steps. All over the world architectural and spatial solutions have been pursued for years that can be best adjusted to the requirements of rental housing. As rental housing has a higher turnover of tenants than ownership housing, one should, therefore, strive to more quickly achieve identification and integration of tenants while minimizing expenditures for the common space and preventing vandalism. The following solutions are usually conducive to integration:

- a characteristic architecture, easy to identify (the shape, colors), as attractive as possible, stimulating pride of being a resident,
- differentiation between entrances to individual staircases, intercoms, etc.,
- organizational mechanisms, conducive to integration of new tenants with the old ones,
- in some cases, special rooms designed for joint activities, e.g. playrooms, residents' clubs or gyms,
- adjustment of the architecture to the residents' tastes - for example, low, two-story row houses with separate, outside stairs for every two units on the first floor.

Reduced maintenance costs for common space not directly serving integration purposes can be achieved, in part, by external entrances to the ground floor units, allocation of gardens to individual units, increased number of units accessible from one landing, including elements resistant to vandalism (hidden lighting in the staircases, durable, although possibly inexpensive materials, equipment not suitable to use in private houses).

The decision concerning which technologies to use should be made at the conceptual stage. One may assume that the cost of external walls is approximately 12 - 16% of the total cost of construction. The use of a particular technology for the shell of the building (comparing generally available and tested technologies) is of no significant importance to the total cost. Often solutions aimed at lowering the cost of construction of the "shell" of the building result in a higher cost of finishing work. Where can savings be found? The answer is simple - everywhere. Lower costs are not a result of the use of some sensational technology, but of a consistent search for rational and economical choices for individual elements of the building.

Below are some fundamental rules to be considered to minimize costs:

- external partitions (the walls and the uppermost ceiling or a ceiling-roof) are among the more expensive elements, and their surface is smaller in proportion to the size and "compactness" of the building's body, which is at the same time conducive to energy saving,
- each square meter of the cheapest window is much more expensive than that of the wall, one should therefore not design excessive glazed surfaces,
- better thermally insulated external walls result in a lower cost of heaters and lower future cost of heating,
- the fewer complex details, the lower the budget and smaller the risk of contractor's errors - for example: protruded balconies on cantilevers require complex thermal insulation; it is better to replace them by balconies supported by independent pillars,
- standard windows or doors are cheaper by up to 30% than those customized by the same manufacturer.

As the next problem is to reduce labor costs, a reduction in all labor-intensive design elements should be made unless they add significantly to the quality of the project. Examples are: niches, vertical and horizontal offsets, the design of walls to reduce the cutting of standard elements (bricks, blocks, rafters).

### **Energy-Savings**

Both the Act and the Ordinance impose construction requirements designed to reduce energy consumption in the building. For now, the requirements are defined by heat loss ratios for external walls, referred to as the "K" factor. Eventually, energy audits of consumption will be required to prove that the annual consumption of energy in a given building does not exceed the acceptable level per each square meter.

The above requirements should inspire the developer and the architect to use solutions going beyond conventional design and technology standards. The role of the developer is to make the architect sensitive to these issues. Developers may seek assistance from experts, such as the Agency of Energy Conservation or the Foundation of Energy Conservation. Commissioned by the Ministry, in July 1996 the Foundation developed several conceptual designs for multi-family buildings for the TBS, with optimal energy-saving standards. Design principles were defined based on the minimum housing expense criteria. The essence of this method is selection of construction solutions (elements of the building) with the lowest costs based on a combination of the initial cost of construction and heat loss costs.

## **Bid for the Design Work and Selection of the Design Firm**

Care must be taken in this process to both conform to all legal requirements and to present the project in a manner to solicit the best proposals possible. Further information on this issue may be obtained from the Office on Public Procurement.

Selection of the architect. The following issues should be considered in the selection process:

- the experience of the architectural firm or individual architect in designing multi-family buildings,
- knowledge of problems concerning energy efficiency and specific features of the design of rental buildings,
- a realistic deadline to complete the documentation.

### **Avoiding mistakes in the documentation.**

Generally architects are not insured against design errors and omissions. As the number of offices with such insurance policies is relatively few, the cost of the insurance must be included in the cost of the design. For larger projects is certainly better to employ offices with a good reputation, errors and omissions insurance, and with back-up personnel able to complete the work in case of difficulties with the primary designer. It is too risky to rely upon self-employed architects when there are tight deadlines and large projects.

A commonly used retainage arrangement is to agree with the architect that the last installment (e.g. 10% of the fee) be paid upon receipt of the building permit. It is also advisable to provide for the formal approval of the documentation by the contractor, confirmed by a written statement of no objection, or by an additional protocol explaining all details not included in the documentation. Finally, one can use the opinion of an independent expert.

In some cases, the contractor offering to include the cost of the design documentation in the cost of construction, or to provide it at a nominal price. Such a solution may seem to have many advantages as there is no potential conflict between the architect and the contractor, and any defects in the documentation and related additional costs are covered by the latter. The risk, however, involves two issues:

- first, the contractor is not interested in designing the building in a way that would lower the cost of construction or the operating costs, but instead he is interested in making his task easier,
- second, usually, the contractor does not employ the best designers and the project he offers may be simply mediocre.

### **Preliminary Project Cost Estimates**

Before analyzing individual budget items, it is important to understand that planning the cost of a project in the building sector is not a one time action, but a process involving successive estimates and approximations, whenever new information concerning the proposed project is presented.

The first step is to describe the technologies, the size and the finishing standard of the houses or apartments. By totaling the estimated costs of these elements, total costs can be determined in a reasonable way.

Based on the architect's concept, a cost analysis can be made. Indices may be used, for example, the product of the usable area and the cost of construction per square meter, or by a "shopping method", with proposals collected from several contractors. Opinions or preliminary bids from several contractors may prove useful at this stage, as they may provide information from which revisions to the design can be made before contracting out the project.

By comparing proposals, a contractor can be selected. The agreement with the contractor defines, among other things, the overall value of the work and deadlines for payments to be made at successive stages of the project. Once the construction begins, cost estimation begins to interweave with monitoring the costs already incurred, to monitor estimation at each point, whether the budget of the project is being exceeded. This is necessary as the standard of finishing work is usually only very generally outlined in the design documentation.

Below is a list of individual budget items included in the total cost of the project.

#### **A. The Cost of Land**

The value placed on a site contributed in kind by the gmina or a by a cooperative should be as high as possible as it increases the developer's contribution and indirectly raises the limit for the KFM loan amount. The situation differs when the TBS must purchase a lot. The TBS will be interested in purchasing an inexpensive lot of the highest market value. This is an opportunity for the management to demonstrate its negotiation skills. This process involves review of various types of sales contracts with the seller, for instance: deferred payment with installments, with joint investment, for example, the seller can be partly remunerated with some part of the non-housing area, etc. The cost to buy the lot usually varies quite substantially depending on the city, the location, the size, the infrastructure on or in the vicinity of the lot, the trees and several other characteristics.

#### **B. Design and Cost-Estimate Documents**

The cost of documentation usually amounts to 5% of the cost of construction.

#### **C. The Cost of Servicing the Land**

Depending on a specific situation these costs will include connections to:

- electrical network,
- water line or a well,
- the sewer system,
- the gas line,
- telephone line,

In some cases this also includes access to the lot and, in exceptional cases, a connection to the existing heating network (most likely in the case of buildings in cities and towns with no gas grid).

#### **D. Construction Costs**

At the preliminary stage, initial costs are based on the cost estimate. Later, after the construction documentation is prepared, a more precise developer's cost estimate is used and finally, after the bid, the final cost is agreed with the contractor.

#### **E. Landscaping, Demolition, Roads and Sidewalks**

Depending on the condition and the size of the lot, related costs may vary considerably. The following items may be included in the cost estimate:

- the sidewalk and exterior stairs in front of the entrance,
- access for vehicles and parking space for a vehicle/vehicles,
- a lawn (landscaping, the topsoil),
- planting trees and bushes,
- fences, gate, wicket, garbage bin, possibly a rug beater,
- fees for cutting down trees and the cost of removing the topsoil,
- demolition of buildings, if necessary.

## **F. The Cost of Project Preparation and Servicing**

These costs usually consist of contracts with construction supervisors, consulting services other than for the project documentation, geodesic services during construction, administrative fees, market analysis, financial advice, and business plan preparation.

**G. General Costs of the Developer-** Fees for activities carried out by the TBS should include the prorated overhead expenses in the fees charged. Thus, it is important to divide the organization's operating expenses among development projects and other activities.

## **H. A Reserve in the Budget.**

As described earlier in the text, the process of cost determination consists of successive estimates. The less detailed the cost data is, the higher probability of an error or omission of some necessary costs. Therefore, regardless of the size of the project, it is necessary to plan for a reserve in the budget for unexpected expenditures. It is usually assumed that the reserve should be 10% of the cost of the project, reducing it gradually with the progress of construction, according to the schedule or, more likely actually spending the funds to cover unexpected items. This budget reserve is such an obvious budget component that it is accepted by the banks in determining the total cost of the project.

## **Project Documentation**

**1. The construction documents**, including the plan to develop the entire area occupied by the project and the architectural and construction designs of buildings, is developed at this stage.

**2. Required opinions, agreements, approvals and permits** should be obtained including the building permit and construction design approval.

The process of obtaining project design approvals and building permits is, despite the new building code, still considered a difficult process by many developers. This is understandable as a late discovery that an opinion, agreement or permit is needed, can disrupt the design schedule, particularly if it is necessary to make changes to well-advanced documentation.

Therefore, it is worthwhile investment to devote time to understanding the administrative requirements imposed by the new regulations. The new Building Code of July 7, 1994 clarifies the responsibilities of all parties in the process. It imposes an obligation on the architect to obtain the required opinions and agreements concerning the construction design, and requires the developer to present all required certificates with the application for the building permit. It obligates the authorized bodies and agencies to provide opinions and make agreements within 14 days of submission. Failure to meet this deadline results in a positive opinion or agreement for the project (art. 32.).

Theoretically, this beneficial provision can explain the lack of a required opinion or agreement, provided that the developer encloses with the building permit application a confirmation of applying for their issuance on specific date. In practical terms, however, it has not been determined what happens if the lack of agreement causes a technical breakdown or financial loss as this provision has not been tested.

**3. Preparation of technical documentation, possibly the organization of work.**

As the design development work does not provide the detailed drawing and specifications necessary for construction, the construction documents must now be prepared. This is done in accordance with the provisions of the contract for design services. This documentation will be the basis of the bid process.

#### 4. Preparation of cost estimate documents (developer's cost estimates).

The requirements for preparing cost estimate are presented in the Ministry's Ordinance of 15 July, 1996 (Monitor Polski No 48/96). There are several types of cost estimates which are defined below:

**Blind cost estimates** includes the list of activities in the sequence of performance on the basis of unit prices or material unit prices and the number of units. It is estimated before the start of construction on the basis of the design documentation.

**Developer's estimate** constitutes the basis for identifying the estimated cost of performance of certain activities and is prepared by the developer by making preliminary cost estimates based on data selected by the developer.

**The bid estimate** is prepared by a construction company in order to participate in a bid or proposal selection. Usually it forms the basis for the conclusion of construction agreement or negotiations precedent to a contract.

**The additional cost estimate** is prepared to change the price set in the contract and is prepared after the work has been performed as a change order to the bid cost estimate due to change in the scope of work.

**The subcontractor's cost estimate** is the basis for the determination of a subcontractor's payment for performed work.

Cost estimates are made using simplified or detailed calculations. The simplified calculation is the sum of prices of all types of work, being the product of the number of units and the unit price. A detailed calculation requires for each item of work the calculation of a product of work units, unit quantities and unit prices. In order to show costs of major phasis or categories of work more clearly tables of consolidated elements are prepared. These are summary schedules of values of unit quantities and other items of a cost estimates related to components of a building (e.g. a wall of one storey) or summary types of work (e.g. earth works). Unit tangible outlays are outlays such as: labour, materials and use of machines and transportation means presented in pricing manuals or established on the basis of an analysis of the individual case.

Pricing manuals used for the preparation of cost estimates are manuals of material prices and manuals of summary materials outlays prepared and issued by appropriate ministries on the basis of separate regulations.

Elements of the cost estimates are:

labor	L	payment per hour
materials	M	cost per unit
equipment and transport costs	E	payment per hour
purchase cost indicators ?	%	of the price of material
indirect costs		margin % from the sum of (L+E)

#### 5. Conducting the tender for a contractor.

Because the KFM program utilizes public funds, the construction contract must be bid in accordance with the Public Procurement Act of June 10, 1994. The provisions of this law should be reviewed at an early stage.

#### 6. Pre-agreement negotiations and the conclusion of contracts for the construction work and supplies.

As was mentioned above, the price in the cost estimate is the basis to conclude the agreement with the contractor. Depending on the duration of work and the size of the construction, it is possible to negotiate a

"lump sum agreement" with the contractor in which the price for the work is fixed and is not subject to change despite inflation. Another solution is to sign an agreement that provides for adjustment of the price if and when inflation reaches certain level (e.g. 8% in a given quarter). Contracts in which most of the work is evaluated by a post-construction cost estimate, based on the actual expenses borne by the contractor should be analyzed carefully. The form of payment should also be subject to cautious negotiation. The riskiest method is payment for a scope of work actually done during a period no shorter than one month, or payment for individual stages of construction (e.g. for the ground level, shell construction with no roof, rafter framing, etc.).

## **FINAL INVESTMENT PLAN**

Information collected during the previous stages makes it possible to prepare the financial analysis. The development of a rental housing project is a capital investment which should be financially balanced, at a minimum not resulting in a deficit, and possibly generating revenue.

The feasibility study and the analysis of the project's viability require collection for the entire development period, of a comprehensive set of data on the cost of purchasing the land or the acquisition of the right of perpetual lease, the cost of project preparation and implementation, and also data on the available sources of funding. The project's financial feasibility study is a comparison of the value received or created against the total cost of the project. For the sake of the study, it is assumed that the value equals the cost of construction, and for units for sale the value equals the selling price. (It is the task of a property appraiser to verify if this is actually true.) The selling price may involve various types of premises sold by the developer, e.g. commercial, offices, studios, garages, and apartments - in case of a project which involves a mixed ownership of apartments.

As mentioned above, sources of project funding usually include the TBS's or cooperative's own resources, already in the bank or due to be received within a specified period of time, usually funds from the gmina budget, deposits from tenants and, possibly, tenants of commercial premises, cash deposits from buyers of units and premises for sale, resources obtained from others (employers, individuals), the KFM loan, and, possibly, another loan for the part of the project not to be funded from the KFM loan. In order to determine amount of the loan, one should estimate the costs in a monthly schedule, and then compare the expected monthly revenues with the planned expenses.

It is often a complicated task to carry out such an analysis as a rental housing project is a long term investment. The entire venture often consists of overlapping stages, requiring coordination of the cash flow. One problem is inflation which may cause irregular increases of prices. It can affect both the costs and revenues. Additionally, individual cost items may be sensitive to inflation to various degrees. Without planning the revenues and costs for individual stages of project implementation - usually in monthly periods - it is impossible to determine the deficit and the need for construction loan disbursements, and as a result, the amount of interest on the loan. Only then can one determine the final costs of the project and be able to answer some basic questions: How much will one square meter of the apartment cost? What will the outstanding debt be at the end of the grace period?

## USING COMPUTERS MODELS:

### The Rent Model

Use of a computer model can facilitate cash flow projections during the project's implementation. The cash flow demonstrates for both the developer and the bank what amount is needed from the loan in a given month. This makes it possible to calculate the interest on the loan, the last and the final element of the budget. The model enables analysis when the planned revenues consist of periodic, irregular payments, which by being irregular or unrelated to the actual cash requirements, can cause funding deficits. The advantage of the computer model is that it not only handles complex calculations, but with the introduction of parameters defining the cost of construction and factors such as prepayments and selling prices, it permits the preparation of alternative scenarios from which the optimal financial plan for the project may be selected. Those developers who use methodical and uniform project analyses will make it easier for the bank to evaluate their projects.

Obviously, the accuracy of forecasts of future financial results a function of the level of accuracy of data entered into the model. The model does not evaluate financial results, but only makes calculations based on the entered data. As true of any analysis performed with the use of the computer, the determining factor for successful results is accurate and complete data. Bank representatives who study the assumptions and results of the analysis, will consider them in close correlation with other project data on tenants or buyers, included in the documents enclosed with the loan application.

To assist developers interested in applying to the KFM for credit, a computer program has been created to facilitate the financial analysis of the project. This model is based on the model used for almost four years in evaluating projects under the Mortgage Fund. It has been adjusted to the specific characteristics of the KFM program.

Several years' experience in the use of the model has shown that following a thorough financial analysis of a project, many assumptions require correction. Often the analysis revealed the need to include additional expenditures for additional work, suggested an increase in the planned reserve or an increase or a decrease of the cost (or price) of units under construction. As a rule, it was a key document in determining the developer's ability to obtain project financing.

### The KFM Loan Model

The second computer model available is the *KFM loan model* is a stand-alone computer program that calculates and presents an analysis of the financial structure of projects proposed to be financed through the Krajowego Funduszu Mieszkaniowego (KFM) program, the National Housing Fund. The model was created to offer developers and Bank Gospodarstwa Krajowego (BGK), the administering bank, an easy-to-use tool to evaluate proposed KFM projects. It presents a monthly amortization schedule for such loans, and the proposed monthly rent and operating expenses based on the user's assumptions. The model permits the quick evaluation of alternative scenarios based, for example, on different loan amounts, rent and operating expense configurations, or inflation and interest rate assumptions.

The KFM loan instrument is a dual-indexed mortgage. The typical loan is intended to be fully-amortizing within 30 years, although there is likely to be a period of negative amortization when the unpaid portion of current interest is added to the loan balance. This will arise when there are insufficient funds to pay current interest charges. Initially, this negative amortization occurs because borrowers do not have to pay interest during the development period. Then, they may often be granted another period of grace from debt repayment of up to six months at the end of construction. So, from disbursement of the first loan tranche through the

grace period, the unpaid interest is added to the loan amount. This will likely continue for a period thereafter because the maximum rent -- of which debt service is a significant component -- is capped by law at 4% of replacement value. As a result, there will still likely be insufficient funds collected from rent and available to pay the bank the full amount of current interest due. Therefore, the outstanding balance of the loan will continue to increase.

As just mentioned, the law sets the maximum annual rent a TBS can charge a tenant at 4% of the replacement value of the occupied unit. Because the replacement value will be adjusted periodically by the increase in the voivod construction cost index -- an indirect inflation adjustment -- the maximum rent limit can increase as well. The minimum debt service payment will be adjusted at 85% of increases in the voivod construction cost index. As the level of the debt service component of rent increases over time, it should eventually exceed the then current interest charges. At that time, debt service funds in excess of current interest will be applied against principal and the loan balance begins to decrease. In time, the loan should be paid in full. The model identifies the month and the loan balance at the end of the grace period and at the point at which the maximum loan amount is reached. It indicates the month of full repayment or, if the loan does not amortize within 30 years, it displays the loan balance in month 360.

The interest rate on the KFM credit is adjusted annually based on changes in the NBP rediscount rate which, in the model, is tied to changes in the inflation rate. The user may vary the inflation rate over the term of the loan, annually for the first ten years and then every five years through year thirty. The model interpolates the intervening values for a smooth pattern of adjustment.

Specific correlations may be set as, for example, the relationship between operating expenses or the voivod construction cost index and the inflation rate, and between debt service or residential rents and the voivod construction cost index. The user enters the timing assumptions of the analysis which are verified against program parameters.

In addition to the basic data and assumptions of the project, the user enters the development cost and funding data, as well as the estimate of current operating expenses. Development costs are entered in the major categories: land, infrastructure, construction and indirect costs. The corresponding costs per square meter are calculated and displayed. The development costs of any commercial units and garages are deducted in order to determine the net development cost of the residential component of the project. Only the residential cost may be funded through the KFM program. The model offers the option of directing all or a portion of any commercial or garage rent to be applied toward KFM debt service.

To determine how the estimated development costs relate to the anticipated capital resources, the following categories of funding sources are provided:

- residential tenants' deposits
- commercial unit payments
- garage payments
- TBS resources
- contributions by others
- KFM loan

Based on these entries, the model indicates whether the proposed funding is sufficient to cover the development costs and whether the individual funding categories fall within the relevant limits. The disbursements of the desired KFM loan can be entered manually as specific monthly amounts, or the model will spread the loan amount evenly over the specified development period. The latter option is particularly useful in the evaluation of projects at an early stage of preparation, before a detailed construction schedule is available.

Operating expenses fall into two categories: those included in rent -- generally common area expenses -- and the additional charges levied on tenants for consumption within their units. Expenses can be entered per square meter, per unit or per person. Included in the rent component is a reserve for capital replacements which can be entered as an amount per square meter or as a percentage of construction costs which percentage can be varied over time. Based on the parameters of the program and the entries made for specific projects, the model presents:

- the initial loan amount
- the initial rent and initial debt service
- the maximum loan balance
- the loan term
- monthly interest charges

Through a series of automated data entry screens, the user moves easily through the process of inputting the data required for the analysis. These items include:

- project identification: name, location, developer
- residential units: number, type, size, and number of occupants of residential units
- commercial units/garages: total area and average rents
- development costs: land, construction and indirect costs
- costs of commercial units
- costs of garages
- funding: sources and amounts
- timing: months of first and last loan tranches
- end of grace period
- initial occupancy
- correlations: operating expenses to inflation  
voivod construction cost index to inflation  
debt service to voivod construction cost index  
residential rent to voivod cost index
- inflation rates: annual rates for 1-10, then every 5 years thereafter
- loan tranches: specific monthly amounts or the option of spreading the loan amount evenly over the specified period
- operating expenses: the expenses included in rent, including capital reserves and additional monthly charges.

The model presents on screen and reports can be printed that detail the following:

- presentation of input data and key program parameters [A1]
- schedule of monthly rent and additional payments by unit type in the first month of loan repayment [A2]
- 30-year, monthly loan amortization schedule [B1-6]
- 10-year, monthly schedule of residential rent [C1-2]
- 10-year, monthly schedule of commercial and garage rent and additional payments for services by residential tenants [C3-4]
- 30-year, annual summary of loan amortization [D1]
- 30-year, annual summary of residential and commercial rent [D2]
- 30-year, annual summary of garage rent and additional payments for services [D3]
- 30-year, annual summary of inflation and interest rates [E1]

The model is a useful tool for performing sensitivity analyses to evaluate, for example, the impact on the maximum loan amount and the loan repayment period of alternative scenarios of:

- inflation rate assumptions
- rent levels
- debt service in excess of the .33% monthly minimum
- percentages of commercial or garage rent directed toward KFM debt service

The model runs under Windows and needs no other software to operate. It has been developed by PADCO, Inc. under contract with USAID. Both programs are available to those developers who intend to use KFM resources as part of direct technical assistance provided by PADCO consultants, through September 1997. Direct assistance in the preparation of cash flow projections may be provided to individual developers. Training in use of the models is provided in workshops organized by the same team of consultants, covering the theoretical background with hands-on computer practice. Participants receive the models on diskette with user's manuals.

### **Preparation of the Loan Application for BGK**

Before a decision concerning the timing and scope of work on a loan application to submit to BGK is taken a procedure for documentation preparation should be selected. The Ordinance provides that this activity can be conducted in two stages: during the first stage i.e. the preparation of the architectural design and the preliminary plan for project implementation - in order to obtain a loan commitment and during the second stage, including the submission of full documentation, in order to obtain a loan.

However, due to an advanced state of design work and perhaps also construction work, it sometimes happens that a loan application has been submitted omitting the first stage. Each time, however, the documentation has been supplemented or updated.

Before discussing a loan application and appendices we would like to present conditions for granting a loan, provided in the Act, Ordinance or the Banking Law which are often misinterpreted and cause misunderstanding.

- The maximum KFM loan is 70% of the defined project costs of the residential component of eligible projects [Act: Article 19.1]. Due to the fact that the KFM program can only finance the development of residential units, the development cost of commercial units and garages must be deducted from total investment costs in order to determine the net cost of the housing component. If commercial units or garages are part of a project, their cost should be identified. It should be noted that project costs include not only construction costs, but also the cost of purchasing or acquiring land, costs of design and other documented costs of project preparation and servicing. However, BGK reserves the right to exclude project costs not directly related to the building.

- The cost of construction may exceed the sum of the product of the minimum area set for each type of flat and the voivod construction costs index at the time of execution of the loan agreement [Ordinance 3.2.] pending BGK approval.
- The borrower must invest at least 25% of project costs before the first KFM loan tranche will be disbursed [Ordinance 9.2.]. The borrower's investment includes documented actual expenditures for: the purchased of land based on the purchase price or a contribution-in-kind valuation, payments made for obtaining the right of perpetual lease, expenses incurred for the preparation of the development project before its start, including land development, costs of preparation of a technical and financial documentation.
- The KFM loan interest rate is variable, set as an annual effective rate equal to 50% of the NBP rediscount rate.[Ordinance 10.1];
- Loan debt service payments for a housing development project are made monthly [Ordinance 11.1];
- Minimum monthly debt service is 0.24% of the principal amount of the loan [Ordinance 11.2];
- The minimum monthly debt service is adjusted quarterly by 85% of the increase in the voivod construction cost index [Ordinance 11.3];
- At the borrower's request a grace period from debt service may be granted of up to 30 months from the day of granting the credit [Act: Article 19.2.2. and Ordinance 11.5];
- Unpaid interest, i.e., interest accrued during the grace period and interest exceeding the borrower's payment, is added monthly to the outstanding debt [Ordinance: 11.6];
- The lease agreement may require tenants to pay a deposit of up to 10% of the replacement value of the unit [Act: Article 32] on the day of concluding the agreement;
- Technical design requirements, including energy standards for residential buildings [Ordinance: Chapter 5 and 6];
- Requirements of minimum useable areas and occupancy guidelines for the 6 types of residential units [Ordinance: Chapter 5 and Appendix 1]. The KFM program identifies 6 unit types based on area and number of rooms.

Unit type	Number of Rooms	Minimum Area	Occupants
1 room	1	32.0	2
2 room	2	44.0	3
2 room +	2	50.0	3
3 room	3	63.0	4
3 room +	3	72.0	5
4 room	4	85.0	6

- The maximum annual rent may not exceed 4% of the unit's replacement value [Act: Article 28.2];
- Maximum household income limits [Act: Article 30]. The average wage in a voivodship published quarterly is the basis for determining whether a household is eligible for TBS housing. If household income exceeds the limits set in the Act, the tenant must pay market rent. Article 30 of the Act sets

the following limits: household income on the day of signing the lease may not exceed 1.3 times the average monthly wage in the voivodship by more than:

- a) 20% in the case of a one-person household;
- b) 80% in the case of a two-person household;
- c) 40% for each additional member of a household.

### **Appendices to Loan Application**

- organization/business plan
- design documentation
- developer's cost estimates
- schedule of activities and payments
- list of tenants
- cash flow projections for the project and loan repayment

### **Bank Application Processing Procedures and Time Factor**

The potential borrower should remember that processing the application for a loan for a multi-family housing project requires time and effort. It is difficult to estimate how much time will be required by the bank to make the decision to grant a loan in the case of a specific project. The amount of time depends to a large extent on whether the submitted application includes all the required items, as well as, on its accuracy, the clear organizational structure of the borrower, a credible professional business plan, and fulfilment of the bank's other requirements, especially collateral for the loan. It also depends on the number of applications being processed by the bank at the same time. An important part of an application analysis is the visit to the construction site before the loan is granted. If required, the borrower should be prepared to produce construction documentation (building permit, construction book, insurance policy). Since financing TBS projects with a loan is still a new phenomenon for both the developer and the bank, sufficient time should be allowed for the process. TBS are strongly recommended not to wait to the last moment when it is lacking the money to prepare the loan application.

### **Collateral for the Loan**

The following are types of collateral for a KFM loan:

1. A mortgage on the financed property is a basic and normally required collateral. The Bank does not require collateral higher than essential to finance the investment, so in cases where the project is build on a large lot intended for further development, it is recommended to separate the development parcels. This will allow for the construction of the new project on the adjacent plot to be financed by another bank.
2. Assignment of a natural calamity insurance policy of the construction;
3. A guarantee for the loan by the gmina that insures positive cash flow of the project;
4. Other forms mentioned in the Banking Law.

The BGK is in the process of modifying the application requirements. However the principles discussed above will continue to be reflected in the BGK requirements.

## **12. MONITORING AND EVALUATING TBS PERFORMANCE**

Devising measurement targets and methods to monitor and evaluate how effectively and efficiently the organization carries out its mission and objectives is a crucial step in the organizational and business planning process. Evaluation measures include targets measuring goal attainment, standards and indicators of quality of performance, efficiency of operation and financial viability. They should be designed to serve internal evaluating purposes as well as external functions of demonstrating your activities and level of performance to clients, shareholders and investors.

As a newly forming organization, the TBS has the opportunity to assume a performance based management system with monitoring mechanisms build into all aspects of its operations such as employment policies, job descriptions, external consultant agreements, organizational growth strategies, organizational and financial management, investment project development, property management services, tenant services. To be most effective, targets and performance standards should be developed with full participation of management and those who will be responsible for carrying out the work. Ultimately, the senior management and board of directors will negotiate the overall organizational goals and performance standards to guide management. An important factor and result of a well established monitoring system is the clear allocation of areas of responsibility throughout the organization which allows for greater staff autonomy and the potential for greater overall organizational creativity.

In developing an organizational monitoring system, it is important to differentiate between measures of process or outputs (efficiency) and measuring results or outcomes (effectiveness). The former indicates how well (measured by time, cost, level of production etc.) the organization and its components - staff, consultants etc. - are performing its activities. This type of monitoring should be carried out on a day to day basis with established reporting periods set. It allows for management review on an ongoing basis, better intra-organizational communication, reports to clients and collection of data essential for a thorough annual review of overall organizational efficiency and effectiveness. Staff will be able to carry out their tasks with minimum interference from management who receive their information through periodic monitoring reports.

### **MEASURING PROGRAM AND PROJECT EFFECTIVENESS**

The second type of monitoring measures results to determine whether the activity effectively addresses the targeted problem. This type of monitoring requires a clear statement of intended results of strategies, programs and projects against which actual outcomes may be measured. It is longer range monitoring which should have interim benchmarks to make it most effective. Usually monitoring of strategy, program and project effectiveness is reviewed by the board of directors as well as senior management annually and determines changes in strategic and programmatic direction. Measures of policy, program and project effectiveness should be determined in the initial planning stages of each activity

Both types of monitoring are important for organizational success.<sup>7</sup>

### **SELECTING PERFORMANCE INDICATORS**

A thorough discussion of indicators to measure all types of TBS activities is beyond the scope of this handbook. A brief overview is presented below with a suggestion of sources that address this topic more thoroughly.

---

<sup>7</sup> For further discussion see Local Housing Policy, Habitat and Halcrow Fox, British Know How Fund.

Efficiency or performance indicators for various activities are usually set against industry or activity norms. As the TBS sector is new, sector specific norms will evolve, however this evolution will be facilitated by an active association or professional group that will work to monitor key sector indicators such as:

- the level of employment,
- annual budgets - budget growth,
- levels of various funding sources,
- number of units developed, managed and rehabilitated,
- other type of activities,
- assets.

Typical norms used to measure housing development efficiency may include the following. It is important to remember that housing development norms such as various cost indicators are usually locally based.

- cost,
- cost relative to budget,
- development time,
- quality of work.

Housing management performance norms may include:

- rent collection
- expenses within budget
- occupancy levels
- operating reserves
- unit inspections
- completion of preventive maintenance

Financial management indicators may include:

- profitability
- liquidity
- financial leverage.

### 13. CONTRASTING NOT-FOR-PROFITS: FRANCE, SCOTLAND, HOLLAND, AND THE UNITED STATES<sup>8</sup>

#### Sector Scales

In contrast to the U.S.A., where the non-market sector provides just less than 6 per cent of homes, west European countries typically have large non-market housing sectors. Their origins often lie at the beginning of the century but their scale reflects post 1945 reconstruction and welfare state policies. The overall share of the social sector is 40 per cent in the Netherlands, 37 per cent in Scotland (and 25 for Britain as a whole), and 17 percent in France. The share of the overall social sector in new housing output has been dropping in all of these countries since the mid-1970s but only in Britain, after 1980, has the absolute size and tenure share fallen significantly. For instance, in Scotland the share of the social sector has fallen from 61 per cent since 1975. These reductions in Britain reflect a contraction in the municipal sector, both by removing new municipal investment and by selling council homes to tenants and other landlords, usually not-for-profits. In Britain, as elsewhere, the NFP component of the social sector has continued to grow. Growth in the 1990s has been ubiquitously slower than in the previous decade. At present NFPs own 92 per cent of the Dutch social HLM own all of the French social sector and in Scotland own just 12 percent of the social stock.

The large scale of the European social rental sectors means that they often dominate the market rental sector, providing three-quarters of all rental homes in Britain and the Netherlands and around half in France. This is in stark contrast to the U.S.A. where the market rental sector is five times the scale of the social sector and where affordable homes have primarily been provided by tax-subsidized private landlords. It was agreed by the panelists that the Polish context was most similar, in structural terms, to the Scottish experience given the large state sector and the relatively recent growth of housing associations.

#### Nature of the Organisations

In Britain, housing associations are classed as private sector bodies and they have been registered with the government as being NFPs. Less than half have a charitable status. If they wish to receive government assistance for development they further have to register with the quasi-autonomous government bodies (Scottish Homes in Scotland and the Housing Corporation in England) which fund, supervise and monitor housing associations. Membership of the association involves purchasing a nominal £1 share and this conveys the right to vote at Annual or Special General Meetings. Tenants do not have to be members and members are often not tenants. A Management Committee, usually of up to 16 members, is responsible for setting and monitoring the policies and accounts of the organization. In Scotland, tenants tend to be the majority on committees but in England this tendency has been reducing as associations have become more dependent on private financing and seek more 'professional' committee members.

In the Netherlands there is no special government body to deal with associations and they are supervised and monitored by the municipalities, though they have to be registered with the central government as not-for-profits or foundations established on the condition that all surpluses made have to be reinvested in housing.

Two distinct types of organizations exist. In the associations the Board of Members appoints a Supervisory Board to monitor executive performance and only one tenant is appointed to that Board. The Board receives modest payment for their involvement. In recent years, again with the growing use of private funding, many

---

<sup>8</sup> Written by Duncan MacLennan based on presentations given during the seminar on „Financing and Organizational Models for Not-For-Profit Housing Organizations“, Krakow, January 1995.

associations are transforming themselves into a different, but still NFP, entity called a housing institution . This model has no members, does not have to have a tenant Board Member, and the Boards select themselves.

In France, there are four distinct types of organizations providing NFP homes. The Offices Publics d HLM are KFM s sponsored by municipalities or Departments. They are public sector organizations, essentially municipal housing companies. The 15 person Board of directors comprises 10 government representatives (5 local and 5 national) plus three tenants and two representatives of other social organizations. The OPAC are also sponsored by public authorities and operate under a mix of public and private law. The Societes Anonymes d HLM are, by way of contrast, classed under legislation for private joint stock companies and they are permitted to make small profits with equity investors making a return. They are sponsored by a range of public and private bodies including private sector firms, public enterprises local authorities and others. Their Boards comprise 13 representatives of shareholders and two tenants. Other, smaller types of organizations also exist. This variety of organizational types is reflected in the TBS's proposals for Poland as the HLM model was being used as a baseline.

Aside from variations in legal status, within as well as across the different countries, associations varied greatly in scale. In Britain there are more than 2500 associations (350 in Scotland). Most operate locally, within a single municipal area or even neighborhood, and the larger cities of around 1 million people will commonly have 50 to 80 associations operating within their territories. Local associations usually have no more than 2000 units. In Scotland, 50% of all local housing associations manage less than 25 units and 30% manage between 20-50 units. Regional associations may operate across a range of municipalities and have become increasingly important in recent years. Their scales are between 2000 and 12,000 units. There is a number of national associations and a dozen with sizes exceeding 20,000 units. In the Netherlands only a few operate nationally. The regional operators are becoming more important but the vast majority operate within a single municipality. Of the 853 associations, only 24 exceed 10,000 units and two thirds have less than 1800 units. As in Britain, recent changes in funding arrangements which have placed associations closer to the capital market have stimulated a few mergers and also seen a growing proportion of investment programmes being delivered by the larger organizations. There appears to be major scale economies in the raising of market finance. This is an issue which aroused much concern on the part of Polish participants but the international experts reminded the audience that their national movements had also commenced on a small scale. In France the HELM operate regionally or locally with the OPHLM having an average size of 6000 units and the OPAC 17,000 but with the private HLM usually not exceeding 2000 units.

In the U.S.A. central government plays a much smaller role in establishing and participating in NFP s, though there was a clearly established legal framework. Organizing committees were much more likely to represent genuinely voluntary rather than government interests though municipal and State governments did play a role. NFP s were more likely to be local and small there.

The European experts were particularly interested in one facet of the U.S. experience. In Europe NFP s had explicit, if varied, housing remits. They could build new homes for rent, and in some cases for home-ownership, and in Britain and the Netherlands played a crucial role in revitalizing housing and receiving stock transferred from municipalities. NFP s in the U.S. participated in a range of activities other than housing but closely related to it, for instance dealing with local training and job-creation programmes or environmental issues. Experts commented that this was an aspect of NFP s which should be more widely developed in Europe and there was some concern that the Polish plans might ignore such matters especially if the TBS were not to become involved in housing rehabilitation. It was felt that French experience was not the best starting point for a model which treated new construction and rehabilitation even-handedly.

### **Establishing and Funding NFP's**

There were major differences in the ways in which housing NFP's were initiated. In the U.S. this was very much a 'bottom-up' process with initiatives stemming from the private and voluntary sectors and there were noticed similarities with the Netherlands. In both Britain and France, however, there was considerable public sector involvement in forming and promoting the NFP's. For instance, the national quangos in the U.K. will promote new associations in areas where needs exist but associations do not and, more generally, they will give financial and technical support to newly emerging association committees.

Once established, NFP's confront an array of funding issues and the patterns have similarities and differences across countries. This summary provides only the briefest overview of some key questions. France relies on a system of subsidized loans provided through the Caisse de Depots though limited grants (about 12 per cent of project costs) are available. The provision of equity by some shareholders in some HLM is a distinctive aspect of financing of NFP's and in most other countries equity investment does not exist at all in NFP's projects. Subsidized loans or tax breaks support U.S. NFP's and these are allocated, usually by State or local governments. In contrast to France and in common with the UK and the Netherlands, NFP's in the U.S. are not confronted by a monopoly supplier of subsidized funds and the best interest deals can be sought out over the financial system as a whole. The U.K. supports associations by up-front capital grants (known as Housing Association Grant or HAG) which vary by project type and location from 40 to 95 per cent of costs but average 58 per cent in England and 73 percent in Scotland. Grants, as opposed to loans, give considerable asset strength to NFP's early in their careers. Since 1988, there has been a great deal of innovation and competition in the provision of loan funds for the non-grant component of U.K. association spending and borrowing margins over bank base rates have been eroding. Some larger associations borrow directly from the bond markets with their credit standing enhanced by private insurance and there is lending by overseas banks as well as U.K. banks and building societies. In the Netherlands, associations had made increasing use of a diverse range of private loan funds which were usually provided by domestic banks and pension funds.

Since 1994, Dutch associations have had to rely entirely on private loan finance and their own accumulated reserves. This followed the 'grossing' operation in which the government set-off future loan subsidies against the value of outstanding debts of the associations and as the two were approximately equal, the overall housing association sector now has no debts and no prospect of future loan subsidies on existing stock. Credit enhancement for loans to associations is ensured by a guarantee fund organized by the national federation of housing associations and paid for by association premiums.

Regardless of the instruments used, two general features were apparent. First, associations are increasingly using private finance to fund projects and, secondly, the level of subsidy support remains high (often close to around two-thirds of project costs). Rents of such units, which in France and the Netherlands essentially remain controlled by the State, have manifested a third trend over the last decade or so; namely they have increased by considerably more than the inflation rate. Rent inflation rate have been double the general index in the U.K., a half larger in the Netherlands and a quarter more in France. Housing allowance bills had burgeoned in consequence and there is a growing concern about the dependence of NFP revenue accounts on such government support which could be curtailed in the future. Rents, in spite of the increase, were still well below market levels for similar properties and these rents with considerable tenure security rights for tenants made association renting generally attractive.

### **Developing and Letting Homes**

In most NFP's in all of the countries, associations would have a staff member responsible for managing the development process; the exceptions were very small associations which could buy-in support, usually from other NFP's specializing in the provision of support services. In Britain, the U.S. and the Netherlands, almost all associations prepared a general business plan to convince founders of the viability of the organization, but this approach was reportedly less widespread in France. In developing specific projects only the very largest

associations maintained in-house design and planning teams and the norm was to contract these services out to the private sector or specialized secondaries.

In all countries NFP s were given clear prior indications of the kinds of projects which would be likely to be prioritized and to be given guidance about maximum allowable cost levels. The English and U.S. systems were also explicitly competitive in that it was clear that those NFP s seeking lower subsidies for given types of project would be more likely to win support. Most approval processes involved two stage submission with approved preliminary proposals then further developed. In general NFP s received in principle subsidy support for their project before taking it to private financiers for their decision. Once projects were completed there was generally some form of inspection to ensure their conformity with technical and funding requirements.

NFP s, in all the countries, had to develop explicit and needs related housing selection policies; fairness in the use of public funds required such approaches. In general new lettings by NFP s had increasingly been directed at the poor, and the new clientele of the 1990 s has been markedly poorer than the pre-existing stock of tenants. Most NFP s maintained their own waiting lists for potential clients, but in all instances local authorities and other investors had a right to nominate applicants for a proportion of NFP's vacancies. The experts took the view that more attention had to be given to waiting and transfer list policies which facilitated the movement of households, especially job-related moves. There was a view that common housing registers, where a single agency recorded the names of those seeking housing in an area and then made them available to all local and state NFP's providers, had a growing role to play.

### **Managing Homes**

The international experts confirmed that a range of management systems and levels of effectiveness prevailed within each country. Smaller organizations often contracted out service provision to providers with scale economies. There was a view that for NFP s to provide a full range of services effectively that an organizational scale of at least three thousand units was required though there was little hard statistical evidence for this observation. Across the countries there was little evidence that NFP s had any systematic evidence of the costs per unit of service for any of their activities. This is a worrying observation as not all systems were competitive, more so in management than development activities.

It could be argued that the French system, where shareholders have made some equity investment, would be more likely to encourage Boards to ensure that managers performed effectively and this would also be encouraged by the fact that housing allowances never fully cover the costs of tenants. Similarly in the U.S., tenants would incur most of the burden of management inefficiencies and pressure landlords to economize. Since 1994, the Dutch system should also encourage efficiency in production but as in the U.K. higher costs may be largely absorbed by housing allowances.

In Scotland, as for the rest of the U.K., high grant rates and housing allowances which cover all of the costs of the poorest households do not ensure efficient resource use. However the U.K. has a very extensive system of monitoring association policies, costs and outcomes. As in the other countries, associations have to produce annual accounts which relate to their subsidized activities. But British associations also have to produce other annual performance information and are, every three years or so, paid a formal monitoring visit by the supervising quango. The results of such monitoring now influence the allocation of new investment funds and are regarded with great importance by the private financial institutions which lend to associations. Dutch monitoring and supervision, by local authorities, has been less formally developed though some associations are now developing performance agreements with municipalities. The Dutch federation of associations also scrutinizes the performance of struggling associations and has a member endowed fund for the restructuring of poor performers. In France, formal monitoring is less well developed than in the Dutch

and British cases though the national federation does encourage peer review of performance and assists poorer performers. In consequence there are few instances of associations ever defaulting on their loan obligations.

The American approach has a different and interesting emphasis. State and local governments who have funded projects check that the properties constructed are used for the intended purposes and client groups and receive annual accounts for projects they have supported. So also do the banks which have provided support and they play an important role in this respect. Given the extent to which private finance now funds associations in other countries it was agreed by the experts that new thought had to be given to the involvement of the private sector in monitoring. This observation may be currently less relevant to Poland, which has adopted a centralized lending model based on the French system. But it may become an issue as more diverse funding sources are sought.

### **Conclusions**

The experts strongly supported the notion that Poland would benefit greatly from having an active and modern not-for-profit sector to unlock investment in the rental sector. Whilst the French HLM model had many merits and formed a useful starting point, for the Polish TBS it was clear that experience elsewhere posed important questions about how the model could be adapted and improved. The structure of the Scottish context provided clues about how TBS might evolve in a context of transferring management and eventually stock from other social landlords and U.K. monitoring systems were of potential relevance. The ability of the U.S. system to capture truly voluntary effort and to link housing to other activities was worth noting. The Dutch approach to an important role for the national federation and the relationships developed with municipalities could also be relevant in the Polish context. It was also clear that systems in Britain, the Netherlands and the U.S. had played an important role in rehabilitation of homes and neighborhoods, and that they had encouraged a diverse and competitive provision of private finance. Rehabilitation and diverse private financing are not the strong points of the HLM model, and if the Polish TBS are to benefit from such experience the present model will have to be adapted.

## BIBLIOGRAPHY

Ball, James R., How to Think Through Your Business and Then Write a Business Plan, Venture America, Vienna Va. 1986.

Barrow, Colin and Paul, Business Plan: Czyli jak zrobić dobry interes, UP Press LTD. Businessman Book, 1988.

Caresbac-Polska S.A., Financial Analysis Manual, CARE Small Business Assistance Corp., Washington D.C., 1993.

Deloitte & Touche, Writing an Effective Business Plan, 1993.

Filar, Ewa and Skrzypck, Jerzy, Biznes Plan, Poltext, Warszawa, 1997.

Fruscello, M., North, W., Sickles, M., Business Planning Guide for Real Estate Institutes/Associations, Eastern European Real Property Foundation, Washington D. C., 1993.

Institute for Community Economics, Managing the Money Side: Financial Management for Community Based Housing Organizations, Springfield, Massachusetts, 1994.

Mulak, Maciej S., Jak opracować Business Plan: Poradnik dla średnich i małych firm, Wydawnictwo M&A Communications Polska Sp. z o.o. we współpracy z M&A Marketing Communications Inc., Canada.

Scottish Homes-The National Housing Agency, Local Market Analysis and Planning in Scottish Homes: A Best Practice Guide, Glasgow, Scotland.

Scottish Homes-The National Housing Agency, Performance Standards for Housing Organizations, Glasgow, Scotland.

Smith, Bucklin & Associates, The Complete Guide to Nonprofit Management, John Wiley & Sons, New York, 1994.

Stockard, Jim, A Guide to Comprehensive Property Management: A Manual for Building Communities through Good Property Management, Local Initiatives Support Corporation, New York, New York.

## ATTACHMENT I

### LAW ON SELECTED FORMS OF SUPPORT FOR HOUSING AND AMENDMENT OF SELECTED ACTS

Text of the Law in its final version after the revision of Senate's amendments

A C T  
of October 26, 1995

on Selected Forms of Support for Housing  
and Amendment of Selected Acts

#### Article 1

This Act defines the principles relating to savings and provision of contractual loans for housing, the operating principles of the National Housing Fund and of Social Housing Associations.

#### Chapter 1

Contractual Savings System (*Kasy mieszkaniowe*)

#### Article 2

1. For the purpose of this Act, the term "Contractual Savings System" shall denote a form of banking activity which is set off in the financial sense and consists in operating inscribed saving-lending accounts and extending contractual loans.
2. Any reference in the Act to:
  - 1) actions or developments relating to the Contractual Savings System shall be interpreted as actions and developments concerning a bank operating such a System;
  - 2) saving-lending accounts or contractual credits shall be interpreted as relating exclusively to accounts and loans held and extended under the Contractual Savings System under rules specified in this Act.
3. With respect to questions not specifically provided for in this Act, operation of the Contractual Savings System referred to in Article 1 shall be governed by provisions of the Banking Law and the Civil Code.

#### Article 3

1. A bank may undertake the activities referred to under Article 2 Point 1 after amending its Articles extending banking operations to this form of activity.

2. The liquidation of a bank operating the Contractual Savings System or withdrawal of the right to operate it under supervisory authority exercised by the Governor of the National Bank of Poland shall necessitate designation of a bank taking over such an operation.

3. The bank taking over such an operation by virtue of law shall inherit the rights and obligations of parties to contractual loan agreements. At the same time it shall inherit the liabilities and receivables as well as all other assets and liabilities connected with the transferred activity.

4. The Governor of the National Bank of Poland shall define, in the form of an Instruction, the detailed principles of setting off the Contractual Savings System from other bank activities and of settlements between a bank which has withdrawn from operation of the Contractual Savings System and the bank taking over this operation.

#### Article 4

1. Funds accumulated on inscribed saving-lending accounts within the Contractual Savings System have the status of saving deposits. Such deposits are covered by the mandatory system of provisioning for funds held on bank accounts, and as to the amount of deposits which together with the interest due exceed the guaranteed amounts - by a supplementary State Treasury guarantee up to an amount specified in separate regulations.

2. Funds accumulated on inscribed saving-lending accounts within the Contractual Savings System cannot be deployed for financing bank commitments other than those related to operating Contractual Savings System.

3. Funds accumulated on saving-lending accounts within the Contractual Savings System are not covered by the mandatory reserve requirements referred to in Article 30 Point 1 of the National Bank of Poland Act dated 31 January, 1989 (*Dziennik Ustaw* of 1992, No. 72, item 360; of 1993, No. 6, item 29, and; of 1994, No. 1, item 2, No. 80, item 369, No. 121, item 591, No. 136, item 703).

#### Article 5

1. Revenues of the Contractual Savings System cover:

- 1) interest and commissions on granted contractual loans;
- 2) service charges on deposits paid into saving-lending accounts;
- 3) interest on fixed-term deposits made by the Fund in banks;
- 4) salaries at the Bank operating the Contractual Savings System in the amount of 1% of savings deposited on contractual savings accounts.

2. The total amount of the deposits referred to in Point 1 Subpoint 3 in one bank or a grouping of banks with equity or organizational ties cannot exceed 15% of the sum of funds accumulated on saving-lending accounts under the Contractual Savings System.

3. The revenues of the Contractual Savings System shall be used for covering:

- 1) interest charges on savings held under the Contractual Savings System;

- 2) interest charges on loans contracted from funds of the National Housing Fund;
  - 3) operating costs of the Fund.
4. The revenues of the Contractual Savings System less the expenses referred to in Point 3, shall be used in their entirety for contractual loans and maintenance of current payment liquidity in the area connected with the System's activities.
5. Surplus funds exceeding outstanding liabilities of the Contractual Savings System under contractual loans may be used for:
- 1) the purchase of State Treasury or National Bank of Poland securities or securities guaranteed by the State Treasury;
  - 2) the deposits referred to in Point 1 Subpoint 3.

#### Article 6

1. In order to secure the current payment liquidity referred to in Article 5 Point 4, the bank operating the Contractual Savings System may apply for a loan from funds of the National Housing Fund.
2. The amount of a loan and its terms shall be defined in a contract.

#### Article 7

The Governor of the National Bank of Poland shall define, in the form of an Instruction, the obligatory scope of information concerning the amount of savings held on saving-lending accounts, the amount of granted contractual loans and repayment record as well as bank revenues and costs connected with the operation of the Contractual Savings System.

### Chapter 2

#### Contractual Loan Agreement

#### Article 8

1. Through the conclusion of a contractual loan agreement, an individual shall pledge to regularly accumulate savings under the Contractual Savings System for a specified duration of time, and the bank operating the Contractual Savings System to hold the savings and following the specified date, with reservation of provisions of Articles 12 and 13, to provide a long-term loan for housing purposes.
2. The housing purposes referred to in Point 1, are the following, which serve to meet the borrower's own housing needs:
  - 1) purchase, construction, modernization, extension outward or upward of a house or a residential flat constituting a self-contained dwelling;
  - 2) obtaining a cooperative title to a residential flat or a title to a single-family house in a housing cooperative;

- 3) carrying out repairs of a house or a flat referred to in Points 1 and 2, with the exception of running maintenance and renovation of a dwelling;
- 4) repayment of a bank loan contracted for the purposes referred to in Points 1 through 3;
- 5) purchase of a building lot or its fragment, for construction of a single-family house or a residential building which will contain the flat of the borrower.

#### Article 9

1. To be valid, the contractual loan agreement must be in writing and must at least define the parties to the agreement, the terms of regular saving, the interest on savings, bank pledge to conclude the loan contract referred to in Article 12, along with the definition of the main terms of such a contract.
2. The Council of Ministers may define, in the form of an Ordinance, the general terms of contractual loan agreements.
3. In questions not provided for in this Act, appropriate provisions of banking law and the Civil Code shall apply to contractual loan agreements.

#### Article 10

1. The duration of regular saving payments cannot be, with reservation of Point 2, shorter than 36 months, commencing from the date of the first payment into the saving-lending account under the Contractual Savings System.
2. Should, under the terms of agreement, the saver prove that in meeting his/her housing needs he/she use savings deposits held on a "housing booklet" account along with the guaranteed bonus offered under separate provisions, the duration of saving may be shortened, but in no case by more than 12 months.

#### Article 11

1. The savings accumulated on a saving-lending account under the Contractual Savings System shall bear interest in an amount equaling at least 0.25 of the re-discount rate of the National Bank of Poland, but in no case less than 2% p.a.
2. Contractual loans shall carry an interest charge of no more than 0.50 of the National Bank of Poland re-discount rate, but in no case less than 4% p.a.
3. The amount of a contractual loan cannot exceed 150% of the accumulated savings with accrued interest.

#### Article 12

1. Upon the lapse of the agreed period of regular saving, the holder of the saving-lending account shall be notified within one month of his/her eligibility for a loan.

2. Upon the application of the holder of a saving-lending account, a loan contract with the said holder shall be concluded and a loan for housing purposes provided within three months of receipt of such an application, save for the circumstances referred to in Point 4.

3. Under the Contractual Savings System the loan shall be provided in accordance with provisions of Article 11, provided that loan repayment has been secured by a mortgage or in another way provided for in the loan agreement.

4. Should repayment of the loan principal with interest be doubtful due to the account holder's lack of credit worthiness or lack of appropriate security for the loan, a loan under the Contractual Savings System may be refused.

#### Article 13

1. The extension of the period of regular saving after the holder of the saving-lending account gains eligibility for a loan requires an amendment of the contractual loan agreement.

2. In cases where the agreed regular saving terms were not abided by during the period referred to in Point 1, the bank operating Contractual Savings System will have no right to cancel the agreement if the account holder applies for a loan. The account holder must be informed of this right by the bank operating such a System.

3. Should the saving process not follow the terms spelled out in the contractual loan agreement, additional requirements may be defined under the Contractual Savings System to be met for loan eligibility, or the agreement shall be canceled.

4. Should the Contractual Savings System temporarily lose its liquidity, loans will be extended in the order in which loan agreements were signed.

#### Article 14

The account holder, prior to award of the loan, has the right to cancel the agreement at any time, demanding payment of accumulated savings with accrued interest, with the reservation that:

1) when the agreement is canceled before the lapse of the agreed saving period, the savings accumulated under the Contractual Savings System will have to be paid out with the interest specified in the agreement within three months after receipt of such an application;

2) when the agreement is canceled after earning eligibility for a loan, the savings accumulated under the Contractual savings System will have to be paid out with interest accrued for the entire saving period in an amount equal to 50% of the interest paid by the bank operating the Contractual Savings System on one-year deposits, within the time specified in the agreement, and when no such time is specified, no later than 3 months after receipt of such an application.

#### Article 15

1. In case property relations between spouses are subject to statutory community of ownership, savings accumulated on saving-lending accounts are owned by both of the spouses, irrespective of the sources of funds or who holds the account. This provision does not infringe the right of each of the spouses to demand the return of part of the funds which were contributed from his/her separate property.

2. In the course of the saving period, the rights and obligations of the holder of a saving-lending account may be transferred to a close relation who does not hold such an account. Such a transfer will be valid upon an appropriate declaration by the account holder and the close relation concerned to a bank representative or supplied with notarized signatures.

3. The close relations referred to in Point 2 are defined as the spouse who does not remain in the statutory community of ownership with the account holder, ascending and descending next of kin, siblings and a person remaining in factual marital relationship with the holder of the saving-lending account.

### Chapter 3

#### The National Housing Fund

##### Article 16

1. The National Housing Fund, hereinafter referred to as the Fund, serves the implementation of objectives of state policy in respect of housing affairs and development of housing construction.

2. The Council of Ministers shall set up the Fund in the Bank Gospodarstwa Krajowego, adapting the Bank articles to requirements of this Chapter.

##### Article 17

1. The Fund shall consist of:

- 1) budgetary funds defined in the Budget Law;
- 2) interest on extended loans and credits;
- 3) interest on Fund deposits held with banks;
- 4) proceeds of Fund investment in State Treasury and National Bank of Poland securities or securities guaranteed by the State Treasury;
- 5) donations and bequests;
- 6) repayment of credits extended out of the former, central Fund for Development of Housing Construction along with accrued interest;
- 7) other proceeds.

2. The total amount of the deposits referred to in Point 1 Subpoint 3 in one bank or a grouping of banks with equity or organizational ties cannot exceed 15% of the sum of the Fund's spare funds.

3. The Fund will also benefit from:

- 1) proceeds from bonds issued by the Bank Gospodarstwa Krajowego under authorization from the Minister of Finance and Governor of the National Bank of Poland;
  - 2) funds from international loans transferred to the Bank Gospodarstwa Krajowego by the Minister of Finance in coordination with the Minister of Physical Planning and Construction.
4. The Minister of Physical Planning and Construction in coordination with the Minister of Finance shall define the terms for repayment of the credits referred to in Point 3 Subpoint 2.

#### Article 18

The funds available to the Fund shall be allocated for:

- 1) extending, on preferential terms, loans to Social Housing Associations and housing cooperatives for construction of dwellings, with the reservation of Article 20;
- 2) extending the credits referred to in Article 6 to banks operating Contractual Savings System to the extent necessary for support of current payment liquidity;
- 3) lending, on preferential terms, to commune administrations for installation of the communal technical infrastructure associated with the housing construction carried out on terms provided for in this Act;
- 4) purchasing State Treasury or National Bank of Poland securities or securities guaranteed by the State Treasury;
- 5) covering the cost of issuing and redeeming the bonds referred to in Article 17 Point 3 Subpoint 1;
- 6) repayment of the credits referred to in Article 17 Point 3 Subpoint 2, with interest and other cost of servicing the credits;
- 7) carrying out other tasks connected with meeting the housing needs, defined by the Minister of Physical Planning and Construction in coordination with the Minister of Finance, in particular repairs and modernization of dwellings for rent;
- 8) covering the costs of providing and securing repayment of the loans and credits referred to in Points 1 through 3;
- 9) covering the remaining costs of carrying out the tasks referred to in Points 1 through 7, on terms defined by the Minister of Physical Planning and Construction in coordination with the Minister of Finance.

#### Article 19

1. Funds available to the National Housing Fund may be used for extending the loans referred to in Article 18 Point 1, for financing no more than 50% of project costs, provided that the loans will be used for construction projects meeting the requirements set out in other regulations referred to in Article 21.
2. The loan amount, interest charges and repayment terms are to be defined in a contract concluded with the Bank Gospodarstwa Krajowego, with the reservation that:

- 1) interest on the loan cannot exceed the re-discount rate of the National Bank of Poland;
- 2) on application of the borrower, a grace period may be given for loan repayment, but in no case for longer than 30 months from the date of awarding the loan.

#### Article 20

1. When the loan referred to in Article 18 Point 1 is awarded to a housing cooperative, the dwellings in a building raised using the loan may be rented or awarded under a cooperative occupancy title to a flat exclusively to the individuals referred to in Article 30.
2. Dwellings in a building raised using the loan referred to in Article 18 Point 1 may not be validly set off as private property or awarded under a cooperative ownership title.
3. The extension of the loan referred to in Article 18 Point 1 to a housing cooperative for financing the construction costs of flats to be awarded under a cooperative occupancy title is possible when the articles of the cooperative prohibit transforming such titles into cooperative ownership titles. Amendment of articles allowing this is prohibited.

#### Article 21

The Minister of Physical Planning and Construction in coordination with the Minister of Finance shall define, in the form of an Ordinance, the specific rules and procedures for awarding loans and credits by the Fund, specific requirements as to thermal properties of buildings, requirements concerning minimum dwelling space and initial occupancy, technical facilities in dwellings and buildings raised with such loans.

#### Article 22

1. The management of the funds available to the Fund shall be supervised by the Supervisory Board of the Bank Gospodarstwa Krajowego, expanded by addition of two representatives of the Minister of Physical Planning and Construction.
2. The financial plan of the Bank Gospodarstwa Krajowego shall provide a separate heading for the financial plan of the Fund, to be developed in coordination with the Minister of Physical Planning and Construction and the Minister of Finance.
3. The Bank Gospodarstwa Krajowego shall draw up a separate balance sheet and income statement for the Fund.

### Chapter 4

#### Social Housing Associations (TBS)

#### Article 23

1. Social Housing Associations may adopt the form of:
  - 1) limited liability companies;

- 2) joint-stock companies;
  - 3) cooperatives of corporate entities.
2. Regulations of the Commercial Code or Cooperative Law, respectively, with changes stemming from this chapter, shall apply to the Social Housing Associations, hereinafter referred to as Associations.

#### Article 24

1. An Association operates in an area defined in the charter or articles of the Association.
2. Income earned by an Association may not be used for sharing out among its partners or shareholders. It is to be used in its entirety for statutory objectives of the Association.
3. The Minister of Physical Planning and Construction shall have to endorse the charter or articles of an Association and any changes thereto.
4. The Minister's refusal to approve the charter or articles, or any changes thereto can be appealed against to the Supreme Administrative Court.

#### Article 25

1. An Association shall appoint a Supervisory Board.
2. The commune or communes on the territory where an Association operates shall have the right of appointing its representatives to the Supervisory Board of such an Association in the number determined in the articles of this Association.

#### Article 26

1. The name of an Association, in addition to words indicating its organizational form, should include the words: "towarzystwo budownictwa społecznego" (i.e. Social Housing Association) or their abbreviation "TBS".
2. Words "towarzystwo budownictwa społecznego" and abbreviation "TBS" may be used in a name and for describing the activity or promotion exclusively to designate Social Housing Associations as defined in this Act.

#### Article 27

1. The object of an Association's activity shall be the construction of dwelling houses and their operation in the form of renting.
2. An Association may also:
  - 1) purchase dwelling houses;
  - 2) carry out repairs and modernize structures to be used for rental housing;
  - 3) lease commercial space in buildings operated by the Association;

- 4) administer buildings under commission for third party owners;
- 5) carry out other activities connected with construction of housing and associated infrastructure.

#### Article 28

1. The Commune Council shall define the controlled rental rates for the housing assets of an Association, expressed in terms of rates per 1 square meter of usable space of a dwelling unit in an amount sufficient, to have the sum total of rent revenue from renting all dwelling units operated by the Association cover the cost of operation and maintenance of buildings and repayment of the loan contracted for construction. The Association shall present to the Commune Council a rates' proposal with a cost calculation.

2. The rent referred to in Point 1 cannot be higher in annual terms than 4% of the replacement value of a dwelling calculated according to regulations stemming from the Act on Rents and Housing Allowances dated 2 July, 1994 (*Dziennik Ustaw* of 1994, No. 105, item 509; of 1995, No. 86, item 433) with reservation of Article 30, Point 5, Subpoint 3.

#### Article 29

An employer, acting to obtain housing for his/her employees, and also other persons with interest in securing housing for third parties indicated by them, may conclude agreements with an Association concerning participation in the cost of construction of such dwellings.

#### Article 30

1. An Association may rent a dwelling unit exclusively to an individual, provided that:

1) the individual and the persons to be housed jointly with him/her, on the day of taking over the dwelling do not have a legal title to another dwelling;

2) the household income on the day of conclusion of the lease agreement does not exceed the average monthly wages in the given province, as published prior to the day of conclusion of the lease agreement, by more than:

- a) 20% in a single-person household;
- b) 80% in a two-person household;
- c) a further 40% for each additional household member in larger households.

2. The Chairman of the Central Statistical Office every six months publishes in *the Monitor Polski*, the official Gazette of the Republic of Poland, the average pay broken down by provinces, exclusive of bonuses paid out of profits and balance sheet surplus in cooperatives or bonuses out of enterprise bonus funds, covering public administration employees excluding the state-owned company Polish State Railways, the public utilities "Polish Post" and "Polish Telecommunication" SA in the first and third quarter of each year.

3. The tenant shall present to the Association, by 30 April of each year, a statement of average monthly income for the household in the preceding year and in case of receiving a legal title to another apartment shall immediately inform the Association of this fact.

4. The tenant or a person applying for a dwelling at the request of the Association have to present a certificate from the appropriate tax office concerning the amount of income earned by that person and other persons of his/her household.

5. In case of:

- 1) the tenant's failure to present on time the statement referred to in Point 3, the Association may cancel the lease;
- 2) a false income declaration in the tenant's statement, the Association shall cancel the lease without notice; upon termination of the lease, the tenant shall be liable for payment to the Association of a compensation for using the apartment in the amount equal to 200% of rent, he/she would have paid if the lease agreement had not been canceled;
- 3) when the tenant declares in the statement an income exceeding the amount defined in Point 1 Subpoint 2, the Association may cancel the lease agreement in the part concerning rent and apply rent at market rates.

6. Provision of Point 5 Subpoint 2 applies respectively if the tenant received a legal title to another apartment in the same locality.

7. In questions concerning the form of income statements and the format of statement concerning income of household members as well as the documents to be attached to such statements or should be retained by those presenting statements for presentation to the Association on demand, the regulations stemming from the Act on Rents and Housing Allowances in the part concerning income statements for determining the amount of allowances shall apply.

#### Article 31

The criteria and procedure of awarding dwellings to specific tenants shall be defined in the company charter or articles of the Association. The form of cooperation between the Society and municipal administration shall be defined in an agreement.

#### Article 32

The lease agreement may stipulate payment by the tenant of a guarantee deposit to cover rent due on the day of vacating the dwelling, in an amount equal to no more than 10% of the dwelling's replacement value on the day of conclusion of the agreement referred to in Article 28 Point 2.

#### Article 33

Provisions of the Act on Rents and Housing Allowances shall apply to questions not governed specifically by provisions of Chapter 4 of this Act.

### Chapter 5

#### Changes in Existing Regulations

#### Article 34

The Act dated 16 September, 1982: Cooperative Law (*Dziennik Ustaw* of 1995, No. 54, item 288) shall now read in Article 219 Point 3:

- "3. Statutes of a cooperative may provide that:
1. in homes for the handicapped, lonely people and in other special homes,
  2. in houses constructed with the aid of funds of the National Housing Fund the cooperative occupancy title shall not be subject to transformation."

#### Article 35

The Act dated 28 July, 1983: On Inheritance and Donations Tax (*Dziennik Ustaw* of 1983, No. 45, item 207; of 1989, No. 74, item 443; of 1995, No. 85, item 428) shall now stand amended by addition in Article 4 Point 1 of Subpoint 6 reading as follows:

- "6) obtaining through donation of the rights to a saving-lending account by a spouse, ascendants descendants, siblings and a person in factual marital relationship with the holder of a saving-lending account under the Contractual Savings System, provided that the funds accumulated on the account are used for housing purposes."

#### Article 36

The Act dated 31 January, 1989: Banking Law (*Dziennik Ustaw* of 1992, No. 72, item 359; of 1993, No. 6, item 29, No. 28, item 127, No. 134, item 646; of 1994, No. 80, item 369 and No. 121, item 591; of 1995, No. 4, item 18) shall now read in Article 49 Subpoint 2:

- "2 in the scope exceeding the guarantees of the official system of guarantees for money assets, defined in the Law of 14 December, 1994: On the Banking Guarantee Fund, concerning savings deposits held on:
- a) "housing booklet" accounts opened up before 23 October, 1990 - until 31 December, 1999;
  - b) inscribed saving-lending accounts in banks operating Contractual Savings System on terms defined in separate regulations - up to the total amount equal to three times the amounts covered by guarantees of the Banking Guarantee Fund, if the deposits were being paid in for a period not shorter than 2 years;".

#### Article 37

The Act dated 14 December, 1990: On Elimination and Liquidation of Selected Funds (*Dziennik Ustaw* of 1990, No. 89, item 517) stands amended by addition, following Article 14. of Article 14a reading as follows:

"Article 14 a

Uncollected amounts due to the central Fund for Development of Housing Construction shall constitute revenue for the National Housing Fund as of the day of its formation."

#### Article 38

The Act dated 26 July, 1991: On Personal Income Tax (*Dziennik Ustaw*: of 1993, No. 90, item 416, No. 134, item 646; of 1994: No. 43, item 163, No. 90, item 419, No. 113, item 547, No. 123, item 602 and No. 126, item 626; of 1995, No. 5, item 25) now stands amended as follows:

l) In article 26:

a) Point 1 stands amended by addition, following Subpoint 5, of Subpoint 5a reading:

"5a) expenditures in a fiscal year for regular saving exclusively on a single saving-lending account in a bank operating the Contractual Savings System according to rules defined elsewhere, in an amount not exceeding during a fiscal year 20% of the amount defined in Point 3,"

b) in Point 3 the wording "Point 1 Subpoint 5 Letters b) - f)" stands replaced with the wording: "Point 1 Subpoint 5 Letters b) - f) and Subpoint 5a,"

c) Point 3 is now followed by Point 3a reading:

"3a. When the taxpayer applied a deduction of the expenditures defined in Point 1 Subpoint 5a and the savings held in a bank operating the Contractual savings System were used in accordance with the purpose of regular saving on this account, the amount of such deductions shall reduce the amount of actually incurred expenditures to be deducted from income for purposes defined in Point 1 Subpoint 5."

d) In Point 7 Subpoint 1 the wording "Subpoints 5 and 6" is replaced with the wording: "Subpoints 5, 5a and 6".

e) Point 8 now reads:

"8. The amount of expenditures on the purposes defined in Point 1 Subpoints 5, 5a, 6, 7a and 7c concerns expenditures incurred jointly by both spouses. When the spouses are subject to separate taxation and incur expenses, these will be deducted as requested in the annual statements, either from income of both spouses in proportions requested in the application, or from income of one of the spouses. When the spouses before marriage incurred expenses during application of this Act for the purposes defined in Point 1 Subpoint 5 letters a) - f) or Subpoint 6 and deducted these from income, the amount of such expenditures reduces the amount of expenditures referred to in the preceding sentence. When the spouses incurred expenses on the purposes defined in Point 1 Subpoint 5 Letters a) - f), Subpoint 5a or Subpoint 6 during their marriage and such expenses have been deducted from their incomes, and next the marriage was dissolved, the amount of expenditures accruing to each of them shall be reduced by the amount of expenditures incurred during the time of marriage in an amount equal to 50% of these expenditures, when the spouses were taxed jointly, and if they were taxed separately, in an amount deducted from income of each spouse."

f) In Point 9 the wording "Subpoints 5 and 6" is now replaced by the wording "Subpoints 5, 5a and 6".

g) Point 10 now stands amended at the end by addition of a second and third sentence reading: "This rule shall apply also when a taxpayer has withdrawn the savings held under the Contractual savings System or

transferred the rights to a saving-lending account to the benefit of third parties, with the exception of own or adopted children. In case of transfer of rights to the account to the benefit of children, the amount of deductions allowed them for expenditures on their own housing needs is defined in Article 41 Point 3a."

2. Article 41 stands amended by addition, following Point 3, of Point 3a reading:  
"3a Banks operating the Contractual Savings System are obliged to withhold, as payers, of advances against income tax on the savings defined in Article 26 Point 10, second sentence, an amount equal to 20% of the withdrawn amount, unless the person withdrawing the money submits a statement declaring that it has not applied deductions under Article 26 Point 1 Subpoint 51;"

3. In Article 45, Point 3a in the last sentence following the words "housing cooperative" stands amended by addition of the following wording: "or savings from an account operated under the Contractual Savings System, or transfer of rights to such an account to the benefit of parties other than own or adopted children."  
Article 39

The Act dated 15 February, 1992: On Corporate Income Tax (*Dziennik Ustaw* of 1993, No. 106, item 482, No. 134, item 646; of 1994, No. 1, item 2, No. 43, item 163, No. 80, item 368, No. 87, item 406, No. 90, item 419, No. 113, item 547, No. 123, item 602, No. 127, item 627; of 1995, No. 5, item 25, No. 86, item 433, No. 96, item 478) Article 17 Point 1 stands amended by addition, following Subpoint 4i, of Subpoints 4j and 4k reading:

- "4j) income of Social Housing Associations from operation of housing assets and other sources of revenue - in the part used for purposes of maintaining housing assets and construction of dwellings for rent,
- 4k) income of the Bank Gospodarstwa Krajowego operating the National Housing Fund and a bank operating the Contractual Savings System, being the equivalent of income earned by the Fund or Contractual Savings System under titles defined elsewhere - in the part used exclusively for carrying out the purposes of respectively the Fund or the Contractual Savings System defined in these regulations."

#### Article 40

The Act dated 2 July, 1994: On Rents and Housing Allowances (*Dziennik Ustaw* of 1994, No. 105, item 509; of 1995, No. 86, item 433) stands amended as follows:

- 1) Article 21 now reads:  
"Article 21  
1. Rent covers: land tax, tax on real estate, administration costs, maintenance of building and technical facilities, costs of maintaining greenery and all premises used in common, including the charges for cleaning, heat and electric energy, with reservation of Article 20 Point 4.  
2. The tenant, in addition to rent, has the duty to pay for services connected with using the dwelling, including bills for electric energy, heat, gas, water, solid and liquid waste removal, lift, collective antenna and house phone."
- 2) In Article 43, Point 2 is now followed by a new Point 2a reading:  
"2a The tenant has the duty, at the request of Commune administration, to

present a certificate from the appropriate tax office specifying the amount of income earned by the tenant's household members."

#### Article 41

The Act dated 14 December, 1994: On the Banking Guarantee Fund (*Dziennik Ustaw* of 1995, No. 4, item 18) the earlier wording of Article 14 is now designated as Point 1, with the article being amended by addition of Point 2 reading:

- "2. The obligatory annual fee is not charged on assets from contractual loan agreements in banks operating the Contractual Savings System according to rules defined elsewhere."

#### Chapter 6

#### Transitory and Final Provisions

#### Article 42

1. Social Housing Associations established prior to entry into force of this Act have the duty, within one year from entry into force of this Act, to adapt their articles of charter to the provisions of this Act, or to change their designation or name. Provisions of Article 24 Point 3 shall apply to changes of articles or the charter.
2. Should the company or cooperative fail to make the changes in the articles or charter by the deadline or in the manner defined in Point 1, the Registry Court will address a demand for eliminating the shortcomings within a specified time, and following its lapse without effects, will make notation in the Register banning the use in the name or designation of the wording "towarzystwo budownictwa społecznego" and so notify the given company or cooperative.

#### Article 43

The Act dated 3 July, 1947: On Support of Construction (*Dziennik Ustaw* of 1947, No. 52, item 270 and No. 73, item 467; of 1951, No. 10, item 75 and No. 14, item 110; of 1952, No. 18, item 108) is hereby rescinded.

#### Article 44

This Act shall enter into force 30 days after publication, with the exception of Articles 35, 38 and 39, which enter into force as of January 1, 1996.

## **Attachment 2**

### **RECOMMENDATIONS TO AGREEMENTS AND CHARTERS OF SOCIAL HOUSING SOCIETIES**

According to Article 24 item 3 of the Law on Selected Forms of Supporting Housing Construction and on amendments to some laws, the Ministry of Physical Planning and Construction approves charters and agreements of social housing societies as well as all any amendments thereof. The charters and agreements should be in conformance with the afore-mentioned law and the Commercial Code or the Cooperative Law, in accordance to the society's organizational form.

According to the Commercial Code, in the case of a company an agreement or charter should primarily include:

- the firm and the location of the society,  
the promoters' name (firm) and address,  
the area of activity,
- duration, if it is limited  
the organization of the management and supervisory bodies;

for a limited liability company:

- the capital amount and the number and amount of shares

and for a joint stock company:

- the amount of the stock capital, the nominal value of stocks and their number.

According to the Cooperative Law, the charter should in particular include:

- name and location
- the area of activity of the cooperative
- duration, if it is limited
- the amount of the registration fees and the amount and number of shares, and the contribution and return dates,
- the rules and mode of electing and recalling the cooperative authorities.

The agreements and charters can also contain provisions on other issues than the already mentioned ones, however they have to be consistent with the binding regulations.

However, the recommendations include extensions of some of the statutory entries and requirements, the placement of which in the charters or agreement is dependent on their approval. It is not required to make detailed quotations of such entries but only to keep to the included suggestions.

### **THE AREA OF THE SOCIETY'S ACTIVITY**

1. The purpose of the society is to expand the possibilities of satisfying housing needs of families that cannot afford to buy an apartment, by building rental houses, at moderate rentals. In such activity, the society should take into account of the social and financial situation of house-seeking families as well as facilitate mobility of unemployed families so as to adapt their distribution to the country's economic transformations.
2. The area of the society's basic activity consists in the construction or purchase of apartment buildings and their operation on the rental principles.

3. To implement such tasks, the society should use the accomplishments of the technological and organizational advancement in housing, with particular consideration of energy saving and innovative architectural solutions to attain highest possible quality of apartments, buildings and the neighborhood, at lowest construction and operation costs.

4. The society may, in particular:

- rent utility premises at the society buildings,
- overhaul and upgrade facilities which are designated to satisfy housing needs on rental principles,
- under contracts - administer apartment buildings which are not its property,
- build apartment buildings for other societies,
- overhaul and upgrade apartment buildings which are not owned by the society,
- perform the role of a substitute investor,
- raise buildings and public utility premises associated with the operation of the housing group (estate).

5. The society should designate revenues from activity, defined in point 4, for basic activity. Admissible is reinvestment of revenues from projects which are not the society's basic activity in order to accumulate investment funds.

6. The society should adapt the housing offer to the local needs by analyzing the housing market and by conducting an appropriate apartment-allocation policy. Such policy should take account of the flow of tenants from municipal stock to the society's resources and the municipality's expenditures for housing allowances.

7. The society should make such rental calculations so that their total amount for entire stocks would cover the instalments for repayment of loans made at the National Housing Fund, expenditures for current operation and would allow to establish an overhaul fund. In preparing an investment and in managing stocks, the society should optimize costs in such a way so as to keep up rental on a possibly low level.

8. In managing stocks, the society should pay attention to the quality of living and the inhabitants' cultural and recreational needs.

## **THE SOCIETY'S EXECUTIVE BODIES**

1. The members of the society's Supervisory Board should be elected from among people who perform or had performed responsible professional functions at institutions related with housing, construction, town-planning, construction supervision, investment finance.

2. The members of the society's Supervisory Board perform their functions voluntarily, however they have the right to have a refund of indispensable costs they incurred in connection with execution of their duties.

3. The decisions of the society's Board require the approval of the Supervisory Board under the following circumstances:

- change in the society's charter or agreement,
- credit application submitted at the National Housing Fund,
- acquisition of immovables,
- determining the rental amount,
- using the investment fund,
- leading activities which are not the basic area of the society's activity,

- determining the apartment-allocation regulations,
- determining the Board's remuneration,
- increase of the company's capital or share (in case of a limited liability company or a cooperative),
- selling or pledging stocks or shares (in case of a limited liability company or a cooperative).

## **THE SOCIETY'S FUNDS**

1. The society creates an investment fund for the society's development, which consists of surpluses of proceeds over expenditures.
2. The society creates an overhaul fund which consists of overhaul write-offs. Money from this fund cannot be earmarked for other purposes.
3. The investment and overhaul funds should only be deposited in banks or invested in Treasury or municipal bonds. The total amount of deposits in one bank or in a group of banks linked in terms of capital or organization should not exceed 15% of the society's deposit.

## **APARTMENT-ALLOCATION**

1. Opinions on applications for renting an apartment which is the society's property are given by a commission which is appointed by the Supervisory Board, made up of representatives of the municipality's Managing Board and the society.
2. The work of the Commission should be defined in the Commission's work regulations.
3. Apartments should be allocated under the apartment-allocation regulations which take account of the municipality's housing priorities. The regulations should also take account of the following priorities which are essential in the nation-wide perspective:
  - young families of no real opportunities for purchasing their own apartment,
  - families with many children, living in particularly difficult conditions (overcrowded apartment, lack of basic technical equipment, buildings that are to be pulled down) ,
  - families forced to change their place of residence for job- seeking reasons.

## **RENTALS**

The society determines the rental scale, which takes account of the factors which increases or decreases the utility value of an apartment, in particular:

- the apartment building's location,
- the type of apartment,
- the apartment's location in the apartment building,
- the apartment building's technical condition,
- lower initial occupancy than the one envisaged in separate regulations.

## **STOCK**

The society's stock consists of inscribed stocks. The stockholders have the right of first refusal [pre-emption] (only for the society and joint stock companies).

When selling shares of a limited liability company or a cooperative, the partners have the right of first refusal.

The number of votes of a cooperative member is proportional to the amount of his shares (only for the society and the cooperative).

All partners are obligated to make proportionate additional payments in order to increase the company's or cooperative's stock.

<sup>1</sup> On Jan 1, 1997, the Ministry of Construction and Physical Planning was replaced by the Offices of Housing and Urban Development (Urząd Mieszkalnictwa i Rozwoju Miast)

<sup>2</sup> Adapted from Shaping Strategic Planning. Pfeiffer, Goodstein & Nolan

<sup>3</sup> The cost of a notarial agreement is affected by the value of the initial capital of the company (over PLN 50.000 the costs are PLN 800 + 0.5% surplus over PLN 50.000 but they cannot exceed 5000 PLN.