

Annex I: Clarification for the Legal statement

Note: the same Legal Statement will be used for the project amendment which includes the substandard work package.

Following the Legal Statement on Risks and General Practice in Gaza addressing the legal approach for substandard housing proposal and feedback received from KfW, UNOPS conducted a review of the legal approach for the substandard work package.

As a result of further consultations with the law firm Al Zaeem & Associates, below lists presents legal documents that could be provided by an individual, starting with the strongest one as number one.

- 1- **Tabu certificate:** Commonly understood as the 'title deed' – the document which constitutes conclusive evidence of a land right. It is the land registration deed issued by the Palestinian Land Authority and it is commonly used to prove ownership of a plot of land.¹ This document is considered as the strongest proof of ownership.
- 2- **A purchase agreement:** A written agreement between a seller (legal owner) and a buyer (actual owner). To consider the purchase agreement as sufficient, the purchase agreement shall be submitted with a chain of ownership contract connecting to the current legal title up to the Tabu certificate. In case the full chain legal documents cannot be provided, additional documents (such as a municipality statement, a construction permit, a water bill, a Mukhtar certificate, an electrical bill) can be requested to prove the legality of the purchase agreement and to confirm the actual property owner.
- 3- **Inheritance Agreement:** Ownership of property may also be the result of inheritance. When the owner of a property or land passes away, ownership is transferred to all the heirs upon confirmation of inheritance as issued by the Sharia court in the area in which the deceased person had resided. This document defines the legal heirs and the number of shares per heir². In case of more than one heir, heirs of the deceased should sign a document called a *consensual division document* which clarifies what part of the inheritance belongs to each heir. Alternatively, in order to minimize the risk, heirs shall sign a so-called *Right to benefit agreement* or *No objection agreement* providing an individual with a right to inherit.
- 4- **A gift agreement:** Is a contract that would lead to a transfer of ownership and it can be relied upon to prove residency if signed by both sides. In order to minimize the risk of gift or taking away the gift from gift, a gift contract should be in writing and a person receiving the gift should confirm accepting the gift ('using' it).
- 5- **Right to benefit agreement:** An agreement signed between the legal owner and the beneficial owner providing him/her with the right to benefit from a land on a temporary

¹ NRC, A Guide to Housing, Land and Property Law in Gaza Strip; October 2015, p. 8

<https://www.nrc.no/globalassets/pdf/reports/a-guide-to-housing-land-and-property-law-in-the-gaza-strip-october-2015.pdf>

² Ibid, p. 20

basis. It is limited to the duration stated in the agreement or the lifetime of the beneficiary. The person cannot be considered a full owner, as he would not have the right to sell the property itself.

- 6- **Lease agreement/ Letter from Land authority/ A gratuitous loan contract/ Letter from Ministry of Waqf:** These types of tenancy or lease contracts/ agreements are signed between an individual and the legal owner of the land where the legal owner can be an individual, Government or the Municipality. An individual is able to use the land/property as per the duration stated in the agreement.

- 7- **Combination of two of the below documentation, in no particular order:**

The purpose of requesting two different documentations is to obtain verification from more than one source e.g. Municipality of Gaza, Mukhtar, Electricity Distribution Company.

- **Municipality statement** - an official statement e.g. water bill, construction permit, any statement from the municipality stating the name of the beneficiary as a resident.
 - Water bill: will be considered if it was issued under the potential beneficiary name or his/her relative. In case, the bill was under the beneficiary relative name, that beneficiary relative name should be stated in the Mukhtar certificate.
 - Construction permit: should be issued under the potential beneficiary name.
 - Residential statement: should be issued under the potential beneficiary name.
- **Mukhtar certificate** - a Mukhtar is a notable person in the neighborhood who is licensed by the Ministry of Local Government to issue certain certificates. Mukhtar certificate will be considered as an essential document of the combination documents that should be provided by the potential beneficiary, and will be under the potential beneficiary name.
- **Electrical bill issued at the name of the beneficiary** - will be considered if it was issued under the potential beneficiary name or his/her relative. In case, the bill was under the beneficiary relative name, that beneficiary relative name should be stated in the Mukhtar certificate.

UNOPS recommendation

Based on the legal letter submitted to KfW, further consultations with Al Zaeem & Associates as well as field visits, the reconstruction and substandard support should be provided to two types of individuals:

1. Owners of a shelter
2. Individuals residing in a house owned by a relative.

Individuals renting a shelter shall NOT be considered as potential beneficiaries for the project.

From presented above types of documents, one set of the below documentation should be considered as sufficient proof of ownership of the shelter (with order of preference):

1. Tabu Certificate.
2. Purchase agreement with Tabu certificate. If Tabu cannot be provided, an individual should provide one of the documents: municipality statement, construction permit, water bill, Mukhtar certificate, electrical bill.
3. Inheritance Agreement – If more than one heir, the inheritance agreement shall be accompanied by Right to benefit or *no objection letter*.
4. A gift agreement.
5. Right to benefit agreement.
6. Combination of documents such as municipality statement, Mukhtar certificate, water bill, electricity bill, construction permit. In order to add an additional layer of verification of the owner and resident of the shelter, field visits (confirmed by the legal letter) will be conducted by UNOPS Engineers allowing them to verify an individual's residence in a shelter and its ownership.

Following further conversation with Al Zaeem & Associates, it was confirmed that all above documents can be considered sufficient and result in limited risk of providing assistance to an individual who is not residing in a shelter.

Below documents will NOT be considered a sufficient:

1. Lease agreement
2. Letter from Land authority
3. A gratuitous loan contract
4. Letter from Ministry of Waqf
5. Electricity Bill (by itself)
6. Municipality statement (by itself)
7. Mukhtar certificate (by itself)

The responsibility of obtaining the legal documentation will lie on a beneficiary. There are two ways the authenticity of provided documentation can be verified:

- a) Law Firm – an individual would be provided with advice/counseling on the type of documents s/he should obtain. Law firm would also verify the authenticity of the documents.
- b) UNOPS Engineers – certain legal documents e.g. water bill, construction permit could be verified by UNOPS Engineer upon receiving training from a law firm.