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Israel's legal mechanism for creating affordable housing doesn't work, state admits

The state now says a 2011 law whose purpose was to promote the construction of low-cost homes lacks the authority to meet that goal.

By Ranit Nahum-Halevy | Jan. 15, 2013 | 7:12 PM

The national housing committees established by law a year and a half ago have done woefully little to encourage the creation of affordable housing. That goal, together with expediting the planning and approval process for new residential projects, was the reason the panels were legislated in the first place.

While no specific definition of "affordable housing" was provided, it is generally interpreted to include small apartments and long-term rentals.

Prof. Rachele Alterman of the Technion's Center for Urban and Regional Studies said the law, which was passed in August 2011, constituted a breakthrough in giving the force of law to the goal of affordable housing in Israel that she called "a drama."

"For the first time in the history of legislation on planning and building in Israel, planning institutions are empowered to intervene from a proprietary-planning perspective," Alterman said.

But when it comes to turning that legislative drama into homes, it seems Alterman's enthusiasm was premature. According to a report on the activity of the committees, none of them has worked to advance a significant number of projects that include small apartments or rental properties.

Of 6,995 residential units whose plans were filed for public review, only 170 were earmarked for long-term rental – and at market prices. Not a single one of the planned homes was intended for sale at below market price.

The state has argued that despite the way the law is, affordable housing does not fall under the purview of the committees and additional laws are needed. "Paragraph 3 of the Planning and Building Law requires a legislative arrangement, and only this can grant authority to intervene in housing prices," stated a representative of the state in a recent administrative court hearing on two petitions submitted by the Coalition for Affordable Housing and demanding the inclusion of inexpensive rental apartments in two residential projects planned in Jerusalem.

"The law for national housing committees is a law in every respect, and criteria for cheap rental housing must be formulated from it," explains attorney Gil Gan-Mor of the Association for Civil Rights in Israel, who belongs to the coalition.

"The state's claim is absurd and should be rejected, since it means the cabinet deceived Knesset members and the public into believing effective legislation was being passed. Now the state says it was never possible to exercise authority on the basis of this law, and that an additional law is necessary," Gan-Mor said, adding, "The cabinet is attempting thereby to quietly erode the Knesset's will and revoke explicit government promises."

In a response, the Interior Ministry said: "The goal of the national housing committee law is to bring about an increase in the supply of housing units. The law does not require the determination of the size or type of apartment for sale or rent but provides the tools to provide for a variety of types of housing, leaving some discretion to decide what is appropriate."

"On the question of affordable housing: According to the legal opinion, planning institutions don't have authority to intervene in proprietary matters and determine what the price of the apartment will be or to whom it will be sold," the ministry statement said.