

# Report of the Housing Discipline Anti-Harassment Unit

# BCN



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# 1 INTRODUCTION

One of the main challenges facing Barcelona is to ensure people who live in the city have access to decent housing and can stay in it. The right to housing is a basic right but it has been relegated from the front line of social policies for decades. We are seeing the consequences of that now.

And to address this situation, since 2015 Barcelona has been implementing a range of measures to make housing a first-class right. One of them is to expand the housing stock, in all of its guises. However, Barcelona is a compact city, geographically restricted, with little margin for growth. Consequently, care needs to be taken to ensure the existing stock fulfils its social function.

To that end, four years ago the Councillor's Office for Housing and Renovation launched the Housing Discipline Anti-Harassment Unit as a new pillar of a policy that understands housing as a public service, focused on reversing the concept of housing as a commodity. That deep-rooted mentality gives rise to a number of bad practices such as property harassment, vacant flats, irregular uses of social housing and the poor state of repair of some housing, among others.

Housing discipline is an innovative approach also being applied by cities such as New York, London, Vienna and Lisbon. In Barcelona it has been pursued under current legislation, in particular the 2007 Catalan Right to Housing Act, and sustained despite the difficulties stemming from the suspension of part of the supporting legislation and the legislative changes that have occurred. That has forced us to reformulate the procedures and look for mechanisms

to culminate the processes involved. And in all this, we must not forget the indispensable role played by the social and residents' movements, their perseverance in defending the right to housing on the streets while, in many cases, leading the push for legislation with more guarantees.

This report covers the action taken between 2015, when the unit was set up, and 2019, with regard to the practices mentioned above. The data included show the progress made with cases in each stage of the proceedings and reflect the range of resolutions achieved. In this regard, although violation of the right to housing provides for fines, collecting fines is not the aim, which is to restore the social function to housing as soon as possible. Priority is therefore given to mediation and reaching an agreement between the parties. Fining is the last resort.

At the centre of these cases, and behind every figure, there are people. Anxious residents whose right to decent housing has been violated, who often organise themselves and who find in the housing offices and Housing Discipline Anti-Harassment Unit the support and means for reporting and resolving their situation and improving their quality of life. Reporting and highlighting these cases increases public awareness of anti-social practices and has a dissuasive effect, the first step in restoring the proper use of housing in our city.

## 1.1 Chronology

- 
- 2015** ● Setting-up of the Housing Discipline Anti-Harassment Unit (December 2015).
- 2016** ● Start made on implementing housing discipline with action on vacant dwellings.
- Start made on the Vacant Dwellings Census, to be completed in 2019.
- Boost to the municipal programme to attract housing for affordable rents with the Hábitat 3 Foundation.
- Approval of the Special Urban Development Plan for Tourist-Use Accommodation (PEUAT).
- Launch of the Plan for inspecting and penalising illegal tourist dwellings.
- Rental Pool boosted by increasing the grants for adapting dwellings to €20,000.
- 2017** ● Decree centralising the discipline unit to speed up the processing of cases. Start made on applying the other disciplinary procedures provided for in the Right to Housing Act and other legislation.
- Implementation of the Highly Complex Properties Programme, linked to the Neighbourhood Plan, which facilitates improvements to properties in vulnerable areas.
- Amendment to the Regulatory Byelaw on Municipal Intervention Procedures in Building Work (ORPIMO) to guarantee residents' rights.
- 2018** ● Systematic plan for ensuring the proper use of housing.
- Creation of discipline coordination boards in all the districts.
- Agreement with the Barcelona Bar Association (ICAB) to reinforce legal advice at the Ciutat Vella Housing Office.
- First municipal reports of property harassment.



## 1.2 Where we are coming from and where we are going

Rolling out a Housing Discipline Anti-Harassment Unit in Barcelona marks the first attempt in Catalonia to systematically promote different legal mechanisms for improving the proper use of housing and protecting the residents' right to it.

The rollout is being implemented in three stages:

### 2015 – 2017: Discipline linked to vacant dwellings

The Housing Discipline Anti-Harassment Unit was set up in 2015 with the following objectives:

- Guarantee the proper use of housing and prevent speculative and anti-social uses.
- Ensure people allocated social housing (HPO) use it as their habitual residence.
- Penalise substandard housing, overcrowding, vacant dwellings, property harassment and a lack of maintenance.

Disciplinary action centred on vacant housing, identified as a recurring situation following the financial crisis. The main focus was vacant flats belonging to big property owners. Following prior identification of such properties, the Unit worked on 524 flats and started proceedings in 177 cases. At the same time, a census of vacant dwellings in the city, including those owned by individuals, was drawn up.

*The judgement issued by Catalonia's High Court of Justice in November 2016, stating that local authorities have no powers to promote such sanction proceedings, made it necessary to reformulate the procedures in this matter.*



### 2018: Centralisation and expansion of the range of procedures

Beginning in 2018, the types of sanction proceedings were expanded to include all those defined in Act 18/2007 and other housing legislation or regulations. By means of selective actions, the need, impact and preventive capacity were assessed and specific objectives established for each district. At the same time, technical disciplinary boards were created to coordinate the discipline service activity with the districts. These mechanisms have prevented information from being dispersed and lost, and made it easier for the districts to have direct knowledge of the proceedings started.

### 2019 – 2023: Consolidation of discipline as a pillar of housing policy

A new, more intensive stage began in 2019 where the key is to define objectives on a city and district level in order to prioritise the types of procedures to be carried out in each area. The Housing Discipline Anti-Harassment Unit currently has a team of 10 people that has gradually been consolidated since the service was set up.

## 2 HOUSING DISCIPLINE

The 2016-2025 Barcelona Right to Housing Plan (PDHB) provided for the rollout of a wide range of sanction procedures that supplemented municipal action aimed at defending the right to housing and reversing anomalous uses. These procedures have focused on resolving such situations, wherever possible by reaching an agreement, to put a stop to them as soon as possible.

At present, there is considerable legislation relating to improper housing use:

- Act 18/2007, of 28 December, on the right to housing.
- Decree Law 1/2015, of 24 March, on extraordinary and urgent measures for mobilising housing acquired in mortgage foreclosure processes.
- Act 4/2016, of 23 December, on measures for protecting the right to housing of people at risk of residential exclusion.
- Act 24/2015, on urgent measures for tackling the housing and energy poverty emergency.

PURPOSE OF THE ACTION	PDHB CODE FOR THE PLANNED ACTION
Mobilising vacant dwellings	A3.4 and B1.2
Stopping property harassment	B2.1
Ensuring the proper use of housing	A3.4 and D2.2
Improving conservation of the dwelling	
Forcing the offer of a social rent	A2.3
Detecting illegal tourist lets	B2.3

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## Actions linked to defending rights and stopping anomalous uses

TYPE OF ACTION	INSPECTIONS	CASES*	DWELLINGS
Mobilising vacant dwellings			
Linked to sanction proceedings	1,429	702	816
Vacant dwellings census	103,864		10,052
Stopping property harassment		36	47
Ensuring the proper use of housing	3,901	145	145
Improving conservation of the dwelling		32	40
Forcing the offer of a social rent		11	11
Detecting illegal tourist lets	9,964	9,045	9,045
<b>Total (excluding the Vacant Dwellings Census)</b>	<b>15,294</b>	<b>9,972</b>	<b>10,104</b>
Total with the Vacant Dwellings Census	118,587		20,156

Source: Housing Discipline Anti-Harassment Unit.

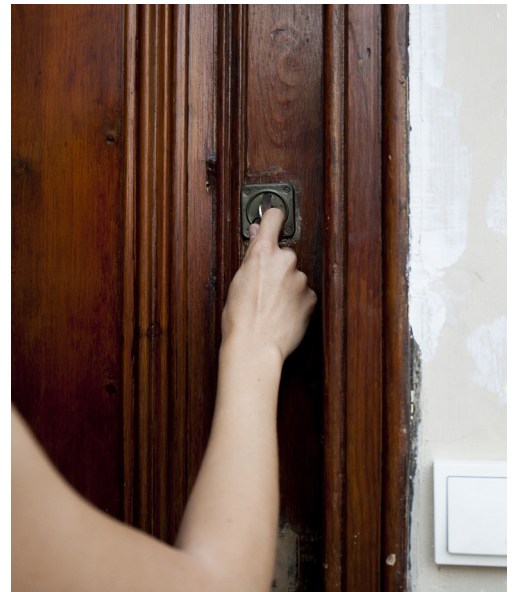
\* Includes cases at all stages: preliminary proceedings, pending, shelved and concluded.

Four key databases provide the starting point for applying these procedures:

- **Register of vacant dwellings and dwellings occupied without authorisation (squats) of the Government of Catalonia.** This includes housing acquired from mortgage foreclosures, basically property of the banks. The owners of these properties are obliged to enter them in the register.
- **Census of vacant dwellings.** Drawn up by Barcelona City Council between 2015 and 2018. Enables their use to be encouraged and, when necessary, lack of use to be sanctioned.
- **Social housing with official protection in force.** Lets us know all the officially protected housing (HPO) built in the city where official protection is still in force. Includes housing for sale now in private hands.
- **Data from the districts,** either from the technical teams or reported by members of the public.
- **Preliminary housing reports,** drawn up by the owners for major renovation projects to justify the need for rehousing, or not, while the work is being carried out. They are drawn up to comply with the Regulatory Byelaw on Municipal Intervention Procedures in Building Work (ORPIMO).

The cases included in these reports may be at four stages:

- **Preliminary proceedings.** Cases where there is some indication that improper use may be being made of the dwelling or the rights of its residents may not be being respected, and the City Council is taking steps to determine, as accurately as possible, the need to open a case or start sanction proceedings.
- **Cases pending.** Includes those cases opened or proceedings instituted where the existence of an infringement has yet to be determined.
- **Cases shelved.** Cases closed where the existence of an infringement has not been confirmed or solutions have been found prior to the end of the process. For example, that includes cases where harassment has stopped, the vacant property has been sold or repairs have been carried out in housing in a poor state of repair, without the need to conclude the sanction proceedings.
- **Cases concluded.** Here we find cases that have been concluded either by the imposition of a sanction or, preferably, by an agreement to stop actions which contravene the right to housing.



## 2.1. Disciplinary action in relation to ‘permanent unoccupancy’

*Time period:* Ongoing over time

*Body responsible:* Housing Discipline Anti-Harassment Unit

### When is a dwelling understood to be ‘permanently unoccupied’?

Article 3(d) of the Right to Housing Act (18/2007) states:

*Vacant dwelling: a dwelling that remains unoccupied without interruption for more than two years. To that effect, justified causes are moving for work reasons, a change of address due to a situation of dependency, leaving a home in a rural area undergoing a process of depopulation or the fact that the owner of the property is involved in a court case pending a judgement. Occupancy without legal title does not prevent a dwelling from being considered vacant.*

The definition of vacant dwelling in the original version of the Right to Housing Act (18/2007) stated that any occupancy affected the calculation of the two-year period for being able to regard a dwelling as ‘permanently unoccupied’. This, together with various judicial decisions, have made it difficult to apply this programme. The new definition of vacant housing, introduced by Decree Law 17/2019, will mean a big improvement in the results obtained by the municipal programme, as it establishes the calculation is not affected by possible occupancies.

The purpose of the work done by the City Council on vacant housing has been to detect it in order to encourage it to be transferred to the local authority or put on the market, with a fine as the last resort. To achieve that, the Housing Discipline team have also been working to:

- Find out which vacant housing is owned by small property owners.

This has involved offering small owners mechanisms to make use of their properties. A key factor here has been to carry out the city vacant dwellings census, which has made it possible to get in touch with all vacant housing owners and offer them promotion measures.

### TESTIMONIES

*The residents of Carrer d’Entença, 151, in Nova Esquerra de l’Eixample, publicly complained about the poor state of repair of their building since it had been taken over by a big property owner on numerous occasions. A municipal inspection confirmed that the new owner was not only failing to exercise their responsibility for the upkeep of the building but also that there were a lot of vacant flats. So a fine of €106,400 was imposed.*

*Following this, negotiations took place with the owner to transfer four vacant flats to the Rental Housing Pool at a price way below that of the area.*

*Thanks to the Vacant Dwellings Census, a vacant building in a very poor state of repair and in the hands of a small property owner was detected on Carrer d’Aragó, the Dreta de l’Eixample neighbourhood. In accordance with the law, the Housing Discipline Unit imposed a fine of €432,000. We are currently looking for the best way of renovating the property to let it at affordable rents.*

”

- Force the housing kept vacant by big property owners to be put to use.

Sanctioning efforts have focused on big owners so they stop leaving their housing vacant, where the priority is incorporating them into programmes for generating affordable and social housing.

Inspection activities have enabled us to identify individual flats and whole blocks not put to use for very long periods, for various reasons: administrative, financial and so on.

## 2.1.1 Measures for preventing vacant housing – small owners

A whole series of measures have been developed in recent years to detect vacant flats, identify the owners and try to turn them into affordable rentals.

The census has enabled 10,052 vacant flats to be identified, 1.22% of all dwellings in the city, a **long way from the 3%** estimated as being **necessary for the rental market to operate properly.**

B1.1

### Identifying vacant housing: drawing up the city's first census of vacant dwellings

Time period: 2016 - 2021

Body responsible: Barcelona Housing Consortium

The first exhaustive census of vacant dwellings in the city was carried out between 2016 and 2019. Thanks to this initiative, we have a real picture of the situation. The census involved **visiting 103,864 flats, 12.6% of all dwellings in the city.** Now the systematisation effort will enable the data to be periodically updated.

The census **identified that only 1.22% of those dwellings – 10,052 flats – were vacant.** This is a very low number, less than the 3% big cities regard as necessary for the rental market to work properly, which reflects the market tension and the difficulty of attracting flats for affordable rentals.

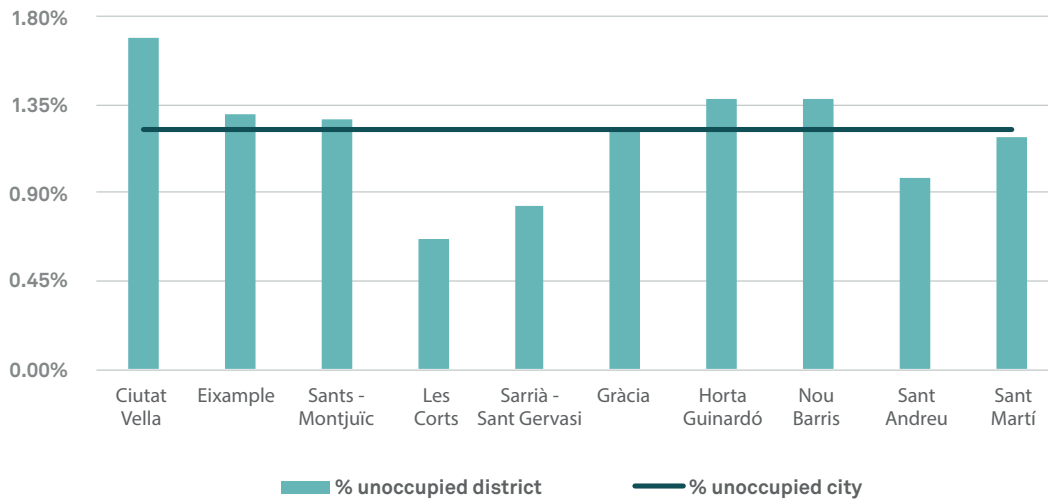
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#### Vacant dwellings identified by district

DISTRICT	DWELLINGS IN THE DISTRICT	VACANT DWELLINGS DETECTED	% UNOCCUPIED
Ciutat Vella	57,825	981	1.70%
Eixample	145,178	1,883	1.30%
Sants-Montjuïc	88,013	1,128	1.28%
Les Corts	40,834	275	0.67%
Sarrià - Sant Gervasi	77,938	655	0.84%
Gràcia	70,026	859	1.23%
Horta-Guinardó	86,938	1,199	1.38%
Nou Barris	77,336	1,065	1.38%
Sant Andreu	70,548	694	0.98%
Sant Martí	111,041	1,313	1.18%
<b>Total for Barcelona</b>	<b>825,677</b>	<b>10,052</b>	<b>1.22%</b>

### Percentage of vacant dwellings identified by district and relationship with the city as a whole



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

The census also enabled 13,852 properties (1.7% of the city total) to be detected which, although registered as dwellings, are being put to different uses other than habitual residence. Among these uses, we can highlight the following:

Properties used as offices, business premises, etc.	5,798
Second homes	1,954
Temporary home (for reasons of work or studies, among others)	977
Unauthorised tourist lets	881
Hotel or hostel	238

The census has enabled 13,852 properties, **1.7% of all city dwellings, to be identified that are being used for purposes other than habitual residence**; notably, 5,798 properties being used as offices and business premises.



## C3.2 and C3.3

**Other measures to avoid the presence of vacant housing**

Besides identifying vacant flats, efforts have been made to attract private housing for affordable rentals by means of two basic mechanisms:

- **Improvements in the Rental Housing Pool**

**At the end of 2019, the pool was handling 920 flats with affordable rents.** Two campaigns have been run with the title 'You have the key', and other measures adopted to encourage owners to add their flats to the pool include:

- incentives of €1,500 for putting a vacant flat in the pool;
- up to €6,000 to settle a debt where a flat is involved in a court case;
- subsidising the total cost of renovation work up to a maximum of €20,000, and
- 50% discount on property tax (IBI). This has been increased to 95% in 2020.

These measures have helped to restore the rate of incorporation into the pool, which had gradually fallen since 2013 and only recovered in 2017, when 226 flats were incorporated, a jump from 72 in 2016. This improvement enabled the pool to increase the flats it offers for rent to 920 at the close of 2019, much higher than the 633 figure of 2016.

- **Implementation of the municipal assignment programme (Habitat 3)**

**At the close of 2019 this municipal programme, run by the Habitat 3 Foundation, was handling 235 flats with a social rent** especially for cohabitation units awarded a flat by the Emergencies Board.

**2.1.2. Measures for preventing vacant housing – big owners****Agreements for assigning vacant and occupied flats owned by banks**

The agreements reached with SAREB and BuildingCenter (bank asset divestment companies) **have enabled us to acquire use of 181 flats since 2015, of which 100 were vacant when assigned.**

**At the close of 2019, the agreements reached with SAREB and BuildingCenter made it possible to obtain the use of 181 flats, 100 vacant, and 81 occupied, for eight years, at an average price of €8,748.**

### 2.1.3. Types of sanction procedures

Disciplinary action in relation to vacant housing has been consolidated and expanded following the lifting of the suspension of Act 4/2016, which enables temporary expropriation and expropriation for use of vacant flats owned by financial entities. Three types of procedures have been carried out in this field, all linked to big property owners (banks, their administrators, investment funds, etc.).

#### Types of procedures developed

- Declaration of anomalous use for 'permanent unoccupancy' and imposition of coercive fines

*Procedure for anomalous use due to 'permanent unoccupancy', Right to Housing Act 18/2007.*

- Sanction proceedings linked to vacant housing

- For anomalous use due to 'permanent unoccupancy', Act 18/2007.
- For not being entered in the Register of Vacant Dwellings and Dwellings Occupied without the authorisation title of the Government of Catalonia (RHBO).

- Temporary expropriation of vacant dwellings in the public interest

Proceedings linked to Act 4/2016. Only affects dwellings included in the RHBO, or which may be entered in the register, and those which belong to legal entities that have acquired them from the owner of dwellings entered in the first or subsequent transfers. This expropriation is for a period of four to ten years.



## 2.1.4. Results obtained

The Unit is currently working on 200 flats belonging to big property owners showing signs of being unoccupied.

Based on data collected in the vacant dwellings census relating to big property owners and the municipal inspection programme linked to 'permanent unoccupancy', 105,293 inspections have been carried out, 1,429 of which were linked to big owners, to assess the need for starting sanction proceedings or not. This important preliminary effort has enabled the Housing Discipline team to work on 816 dwellings and press for them to be put to use.

### Cases and dwellings worked on

TYPE OF SANCTION PROCEDURE	CASES	DWELLINGS
Declaration of anomalous use for 'permanent unoccupancy' and imposition of coercive fines	524	524
Sanction proceedings linked to vacant housing	160	274
Temporary expropriation of vacant dwellings in the public interest	18	18
<b>Total</b>	<b>702 cases</b>	<b>816 dwellings</b>
Cases and dwellings under way	99 cases	200 dwellings

\* The purpose of coercive fines is to force the owner to take some action in order to comply with the law, in this case, to put housing to use. The fine is imposed when non-compliance with the law is confirmed.



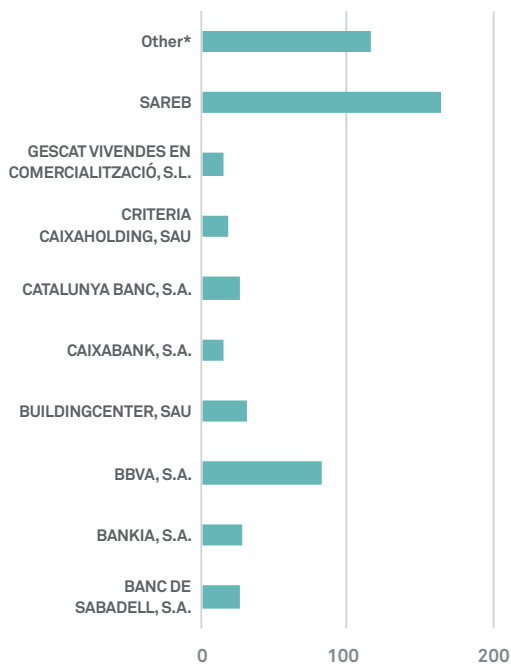
### Declaration of anomalous use for 'permanent unoccupancy' and imposition of coercive fines, Act 18/2007

A total of 524 cases were initiated between 2016 and 2017 which gave us a picture of the main property owners in the city with vacant dwellings in that period.

However, following a judicial ruling in 2016 that local authorities had no powers to pursue these cases, the municipal strategy required a rethink. Now, once the declaration of anomalous use proceedings have been instituted, the process of initiating sanction proceedings begins. So, some of the anomalous use proceedings were switched to sanction proceedings, while other dwellings were sold or rented.

Based on the anomalous use proceedings, and in the event the owner did not take any measures for resolving the situation linked to putting the dwelling to use or assigning it to another party, coercive fines were established to press them to take action. **Seven of the fines imposed have been paid, all in the Nou Barris district, for a total of €65,000.** In one case, 80% of the fine was waived as the dwelling was assigned to the City Council.

### Main owners of dwellings with a declaration of anomalous use for being permanently unoccupied

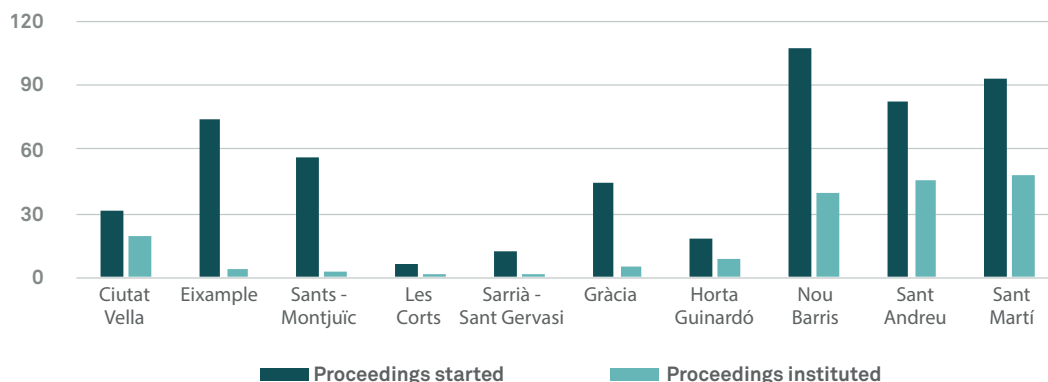


\* Groups together the other big owners, all those with fewer vacant dwellings than the nine listed.

### Anomalous-use declaration proceedings for permanently unoccupied dwellings per district

Proceedings started	524
Cases concluded and shelved	177

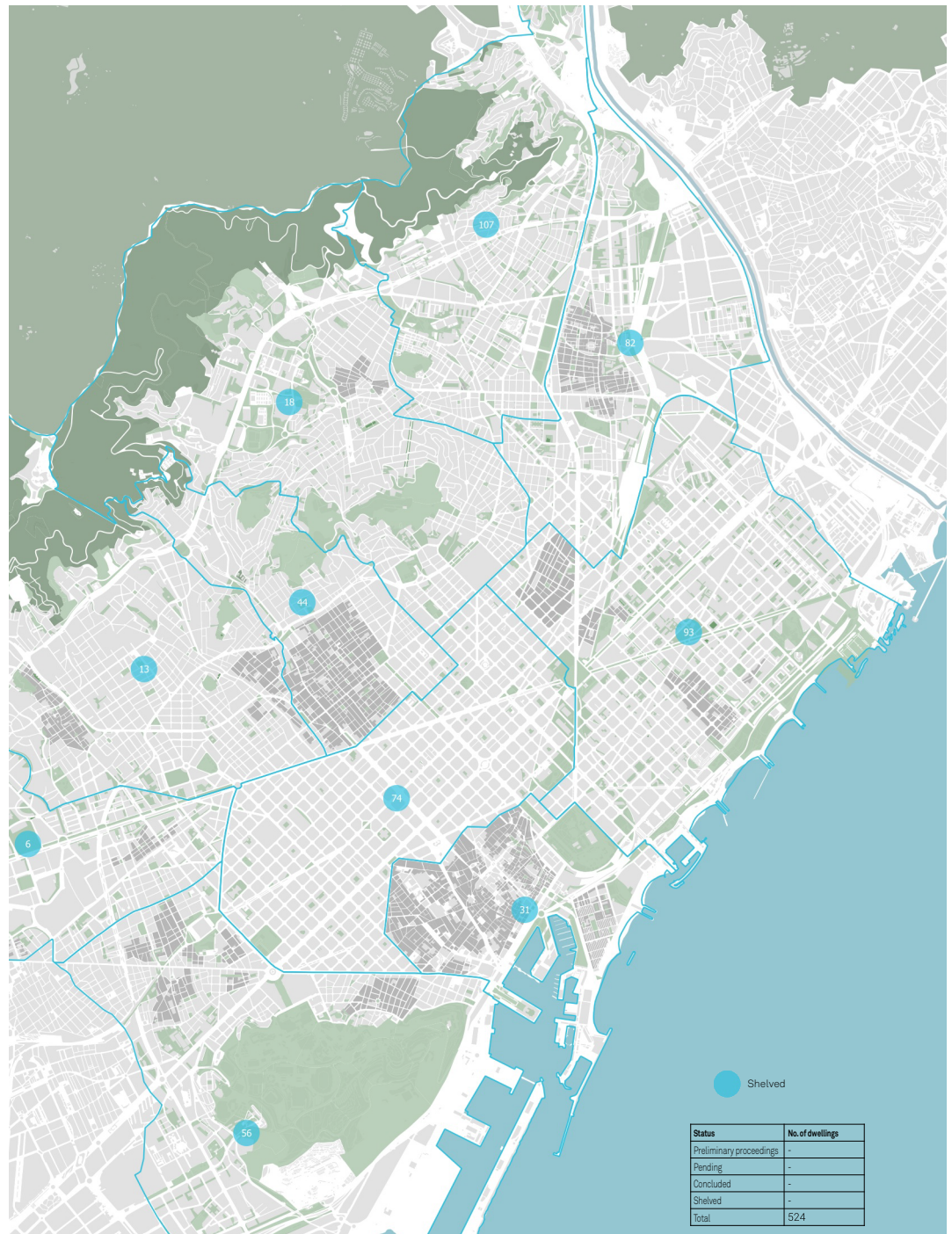
### Dwellings with anomalous-use declaration proceedings for being permanently unoccupied per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.



**Location of cases linked to anomalous use for being permanently unoccupied. January 2020**



Source: Municipal Institute of Housing and Renovation.



## Sanction proceedings linked to vacant housing

Include proceedings linked to 'permanent unoccupancy', linked to Act 18/2007, and proceedings linked to the lack of an entry in the Register of Vacant Dwellings and Dwellings Occupied without the authorisation title of the Government of Catalonia. (Cases linked to coercive fines not included.)

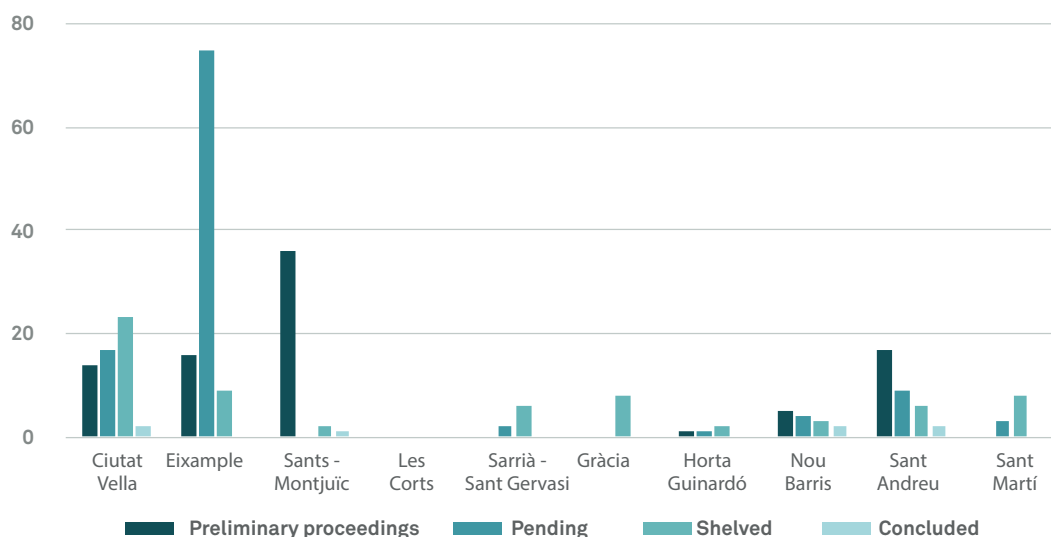
### Sanction proceedings linked to vacant dwelling (permanently unoccupied and no entry in the RHBO)

PRELIMINARY PROCEEDINGS		PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
62	89	37	111	54	67	7	7	160	274

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### Dwellings with sanction proceedings for being permanently unoccupied per district

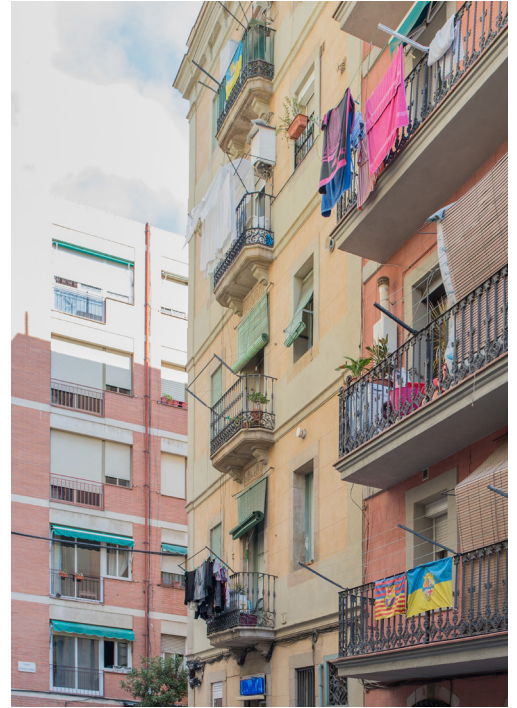


Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

### Temporary expropriation of vacant dwellings in the public interest

*These proceedings, linked to Act 4/2016, will enable the public housing stock to be expanded by expropriating flats from big property owners (which are included in the Register of Vacant Dwellings and Dwellings Occupied without Legal Title, or which may be entered in the register). The new Decree 17/2019 on urgent measures to facilitate access to housing provides for expropriation of the domain (i.e. the property) and will therefore enable action to be taken that will facilitate permanent expansion of the public housing stock.*

These proceedings are not governed by the normal length of sanction proceedings. That, added to the lack of cooperation on the part of owners, has led to proceedings being stretched out to a year. We are currently working on establishing a length of six months.

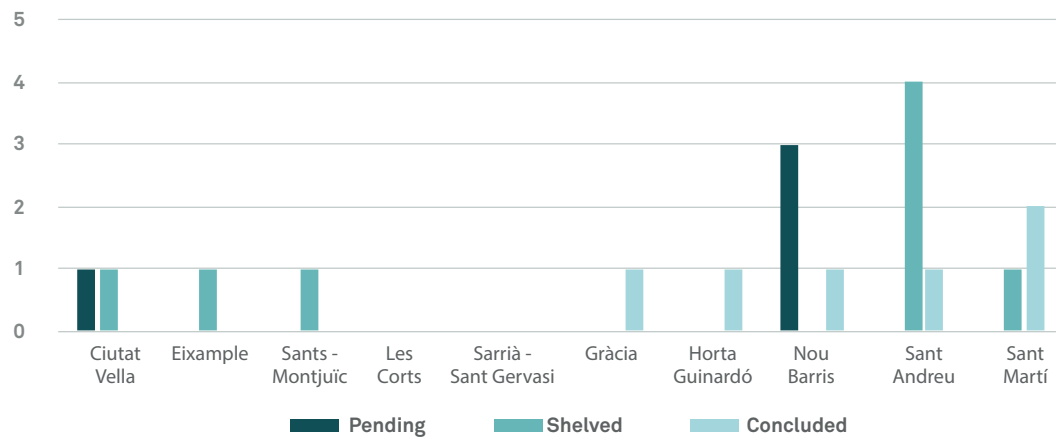


#### Act 4/2016 expropriation cases

PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
4	4	8	8	6	6	18	18

Until now, the use of six flats has been expropriated and these will be let at affordable social rents. One of the six was occupied when it was expropriated and the other five are at different stages of the award process. The price for expropriating their use for 10 years, once the cost of renovating them to make them habitable has been discounted, is between €9,000 and €27,400 per flat.

Dwellings with temporary expropriation proceedings per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

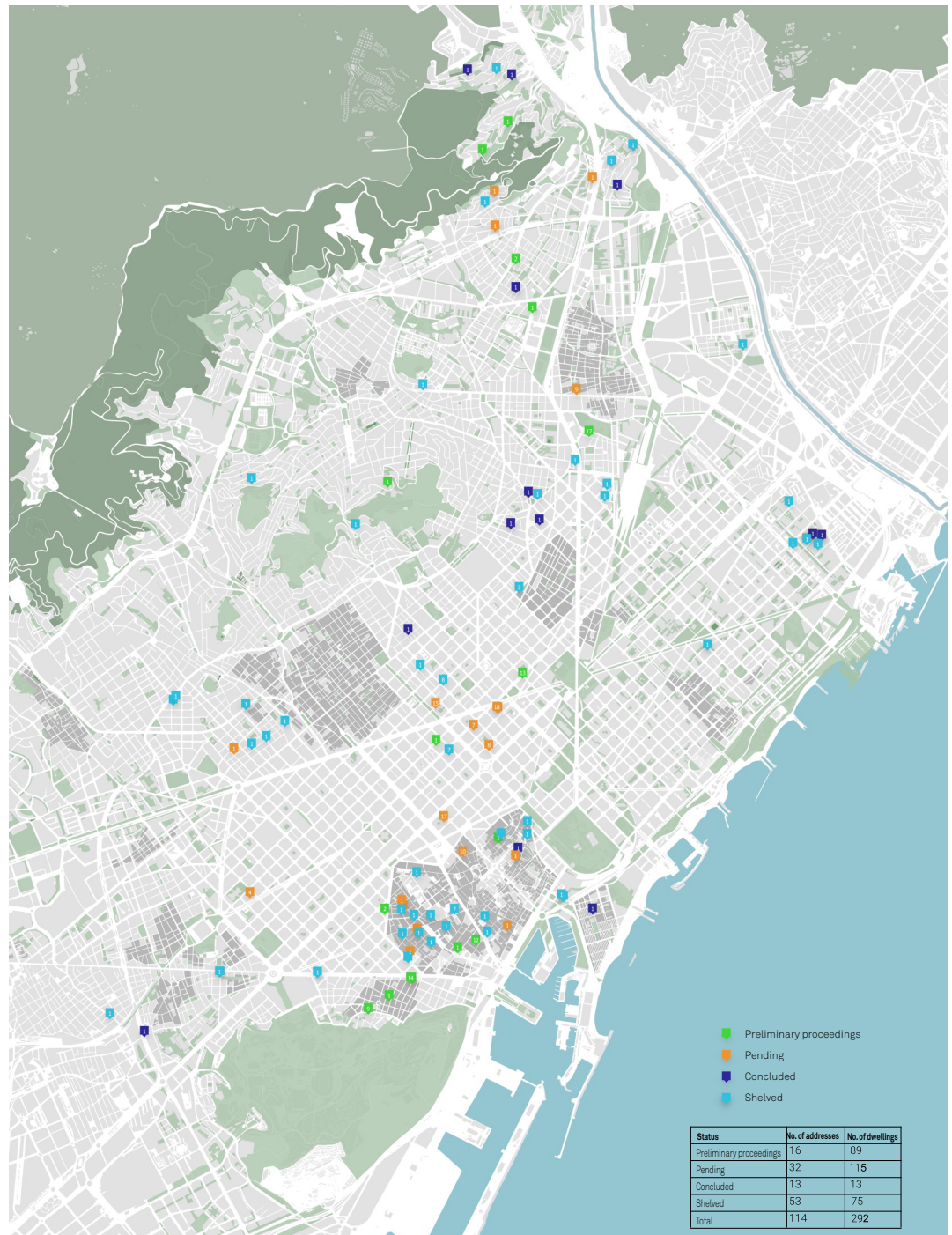


So far 6 flats have been expropriated and become municipal property. They will be run by the housing institute IMHAB.

## Sanction proceedings linked to vacant dwellings. January 2020

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\* Include the sanction proceedings for permanently unoccupied dwellings, no entry in the Catalan Register of Vacant and Occupied Dwellings, and the temporary expropriation of vacant dwellings.

Source: Municipal Institute of Housing and Renovation.



## 2.2. Disciplinary action in relation to property harassment

*Time period: Ongoing over time*

*Body responsible: Housing Discipline Anti-Harassment Unit*

### What is property harassment?

Article 45(3)(c) of the Right to Housing Act (18/2007) defines property harassment as

*[...] any action or omission with abuse of right that aims to disturb the person harassed in the peaceful use of their home and create a hostile environment, whether in a material, social or personal sense, with the ultimate aim of forcing them to adopt an unintended decision on the right that protects them in occupying the dwelling. For the purposes of this Act, property harassment constitutes discrimination. An unjustified refusal on the part of the owners of the dwelling to charge the rent in the lease is an indication of property harassment.*

Property harassment in its two guises, harassment and discrimination, have proliferated in recent years, especially by big property owners such as investment funds. The rapid return on investment that guides certain actions by these companies clashes with the rights of tenants, especially when they have contracts with mandatory renewal, or the right to be rehoused and to return to properties subject to major renovation.

Faced with this situation, the City Council has encouraged people to fight harassment in accordance with the administrative procedure offered by the Right to Housing Act and the amended Regulatory Byelaw on Municipal Intervention Procedures in Building Work (ORPIMO). That means when a major renovation process gets under way in a property with tenants, the owner must guarantee they have a right to be rehoused. If so, the owner must put forward a rehousing plan which complies with all legal requirements so the tenants can exercise this right, before obtaining the works licence.

### TESTIMONIES

*Kamal had been living in his flat in the Ribera neighbourhood of Ciutat Vella on the basis of a verbal agreement with the owner since 1973. This was accredited by some receipts and the fact he had always paid his rent cash in hand during all those years. When ownership of the property was transferred to a property developer and large property owner in 2017, it was not willing to recognise his contractual relationship and started eviction proceedings. Kamal reported this to the housing office, triggering the Housing Discipline Anti-Harassment Unit's intervention. The Unit managed to get the company to reconsider its action and an agreement was reached to terminate the contract. Today, Kamal is living in a town in the Maresme county, in a flat he has managed to buy thanks to the compensation he received for the termination of the contract.*

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**Coordinated action with other bodies** has been particularly important in the fight against property harassment.



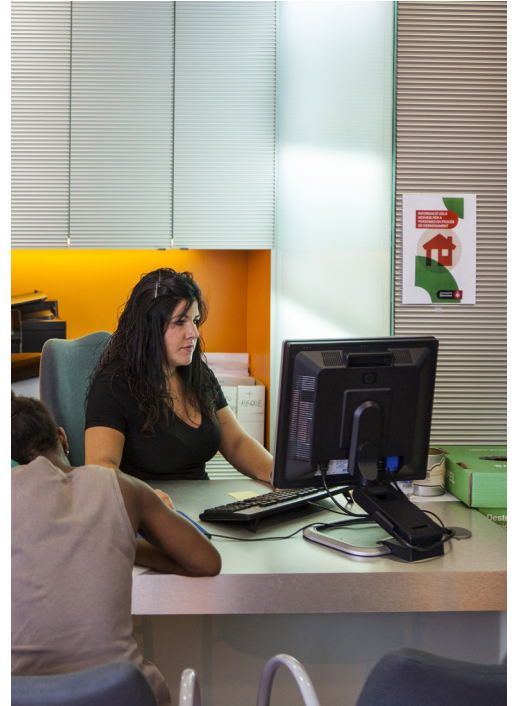
These two municipal actions are geared towards keeping residents in their home and preventing them from being pressurised and forced into leaving it. They have also enabled the City Council to send a warning to owners regarding the rights to equality and access to housing occupancy. Rights that give tenants access to and maintenance of their home without suffering discrimination or harassment.

Barcelona is the first Catalan city to start contentious proceedings so they can end situations of harassment directly. Often, particularly in situations of harassment and discrimination that affect a number of people, such action has been coordinated with residents associations and organisations defending the right to housing, using their right of representation.

Article 48 of the Right to Housing Act (18/2007) establishes the following:

*'Legitimation*

*In order to make the rights established by this Act effective, and notwithstanding the individual legitimation of the persons affected, legal persons who are legally empowered to defend collective legitimate rights and interests may act on behalf and in the interest of persons who have so authorised them in a specific case.'*



TESTIMONIES

*Dolores and her son, tenants with a mandatory renewal contract in Ciutat Vella's Barri Gòtic, suffered a lack of maintenance for years at their property, which belongs to a big property owner, with constant damp and drips in their home which was affecting their health. They reported the situation to the Ciutat Vella Housing Office and the City Council's intervention helped them to reach an economic settlement with the owner and recognition of their right to terminate the contract.*

”

\* All the cases described relate to big property owners, i.e. they own more than 15 properties.

## 2.2.1. Measures for preventing harassment

### TESTIMONIES

*Various organisations and residents in three properties on Carrer del Carme, in Ciutat Vella, represented by the Tenants Union, reported the harassment they were suffering from the same big property owner. This company had bought the properties in the last few years and ignored residents' complaints about the poor state they were in.*

*Residents with old-style rents were living with other tenants in very vulnerable situations, with contracts about to end that the owner refused to renew. As a result of joint action with the local organisations, they managed not only to enforce the duty to maintain the buildings in a good state of repair but also to keep the contracts at the same price.*



An analysis was made of the **475 rehousing plans** submitted to ensure users' rights are respected. **81.5%** were approved, **22.5%** of those after the necessary adjustments.

Besides housing discipline, which enables harassment to be penalised, a whole series of measures have been developed to prevent harassment processes starting.

### Actions linked to building renovation processes

*Time period: Ongoing over time*

*Body responsible: Housing Discipline Department at the IMHAB*

Renovating properties is a necessity in a city with an old housing stock such as Barcelona has. This renovation must also help to improve the living conditions and health of residents, and under no circumstances pose a threat to the stability, duration and prices of the rental contracts those people enter into. To achieve that, measures have been established whether the renovation is subsidised or not.

The amendment to the Regulatory Byelaw on Municipal Intervention Procedures in Building Work (ORPIMO) means that if the intervention is in properties with residents, the owner has to draw up a rehousing plan or issue a Declaration of Compliance stating that rehousing is not necessary. If the owner does not comply with this obligation or issues a false statement, the licence may be denied.

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### Preliminary housing reports at the close of 2019

FAVOURABLE <sup>1</sup>		UNFAVOURABLE		CANCELLED	PENDING	TOTAL NUMBER OF DWELLINGS
Number	Percentage (%)	Number	Percentage (%)	Number	Number	Number
387	81.5%	47	9.9%	38	3	475

<sup>1</sup> Includes: 18 cases with favourable reports, with conditions; 19 favourable with prescriptions, and 50 which, after initially receiving an unfavourable report and introducing the necessary changes, have received a favourable one.

## Other measures for tackling property harassment

*Time period: Ongoing over time*

*Body responsible: Housing Discipline Department at the IMHAB*

Apart from amending the ORPIMO and, therefore, the supervision of renovation work that affects properties with residents, the Housing Discipline Department has been working on other measures to prevent property harassment, notably:

- **Setting up the resident expulsion working group of the Barcelona Social Housing Council (CHSB)**, the main information and participation body on city housing policy. Its objectives are to:
  - Carry out a diagnosis, based on cases detected in an area, of the number of entire properties and the persons to whom and manner in which their ownership has been transferred over the last few months, to enable their data to be published.
  - Discuss, debate and work on the organisational changes required for tackling this new problem (advice, renovation licences etc.).
  - Study a possible legal defence for entire blocks.

Since the group's creation in 2017, it has worked on state-of-the-art property harassment sanction proceedings; the *Guia del lloguer* (Guide to Renting) and its FAQs; drafting the ORPIMO amendment; and the housing offices' report on blocks at risk of expulsion, which has served as the basis of the Housing Discipline Anti-Harassment Unit's work on harassment.

- **Report on harassment cases detected.** The housing offices draw up a report that is periodically updated and facilitates follow-up, mediation and, where necessary, referral to the Housing Discipline Anti-Harassment Unit. This report includes properties identified by residents associations.
- The **Guia del llogater en perill** (Guide for Tenants at Risk) drawn up by the Barceloneta Housing Commission (which was created by the Barceloneta Community Plan Good Neighbourhood Committee) aims to become a tool for defending the right to housing.
- **Agreement with the Barcelona Bar Association (ICAB).** This means that more help and legal guidance can be provided to users and residents associations or other organisations to tackle:
  - harassment (passive or active),
  - exorbitant rent increases, and
  - the acquisition of buildings by large investment funds.

It also facilitates access to free legal aid. This service has started at the Ciutat Vella Housing Office. In 2019 it dealt with 340 queries, 331 from individuals and 9 from organisations.

An agreement was signed with the ICAB to boost **legal advice at the Ciutat Vella Housing Office enabling them to deal with 340 cases involving individuals and organisations.**

## 2.2.2. Types of sanction procedures

With regard to property harassment, work has been done with residents associations and housing defence organisations to identify cases and support people suffering harassment and discrimination.

Proceedings have been developed linked to Article 123(2) of Act 18/2007: *Very serious infringements with regard to protecting housing consumers and users in the property market.*

Section a)

*Undertaking actions or omissions that involve harassment or discrimination, in accordance with the provisions of this Act.*



## 2.2.3. Results obtained

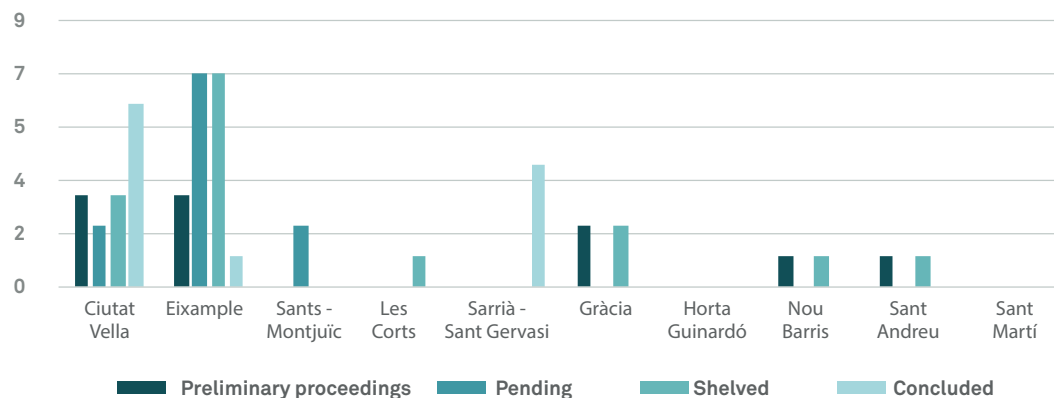
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### Property harassment proceedings

PRELIMINARY PROCEEDINGS		PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
8	10	6	11	14	15	8	11	36	47

### Households with property harassment cases per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

The work done has made it possible to **end the harassment and discrimination** being suffered by **35 people**.

Since the creation of disciplinary action in relation to property harassment, the Anti-Harassment Unit has worked on 36 cases involving 47 dwellings. These proceedings have involved both big property owners (22 cases) and small ones (14 cases).

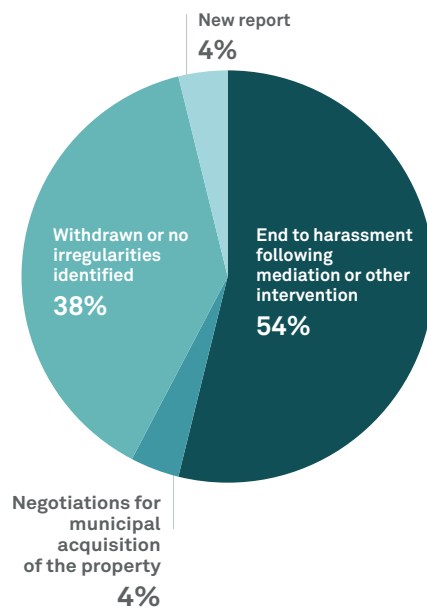
An agreement has been reached in 14 dwellings to stop the harassment, guaranteeing 35 people the right to

housing and not suffering discrimination. In some cases, the agreement has involved improvements to the dwelling, while in others a financial settlement has been reached giving the people affected access to another home. The decision depends on whether the people concerned opt to stay in the dwelling once it has been renovated or to seek compensation, which has ranged from €70,000 to €350,000.

Most of these dwellings are in the Eixample (38%) and Ciutat Vella (30%) districts.

**Reason for concluding or shelving the cases**

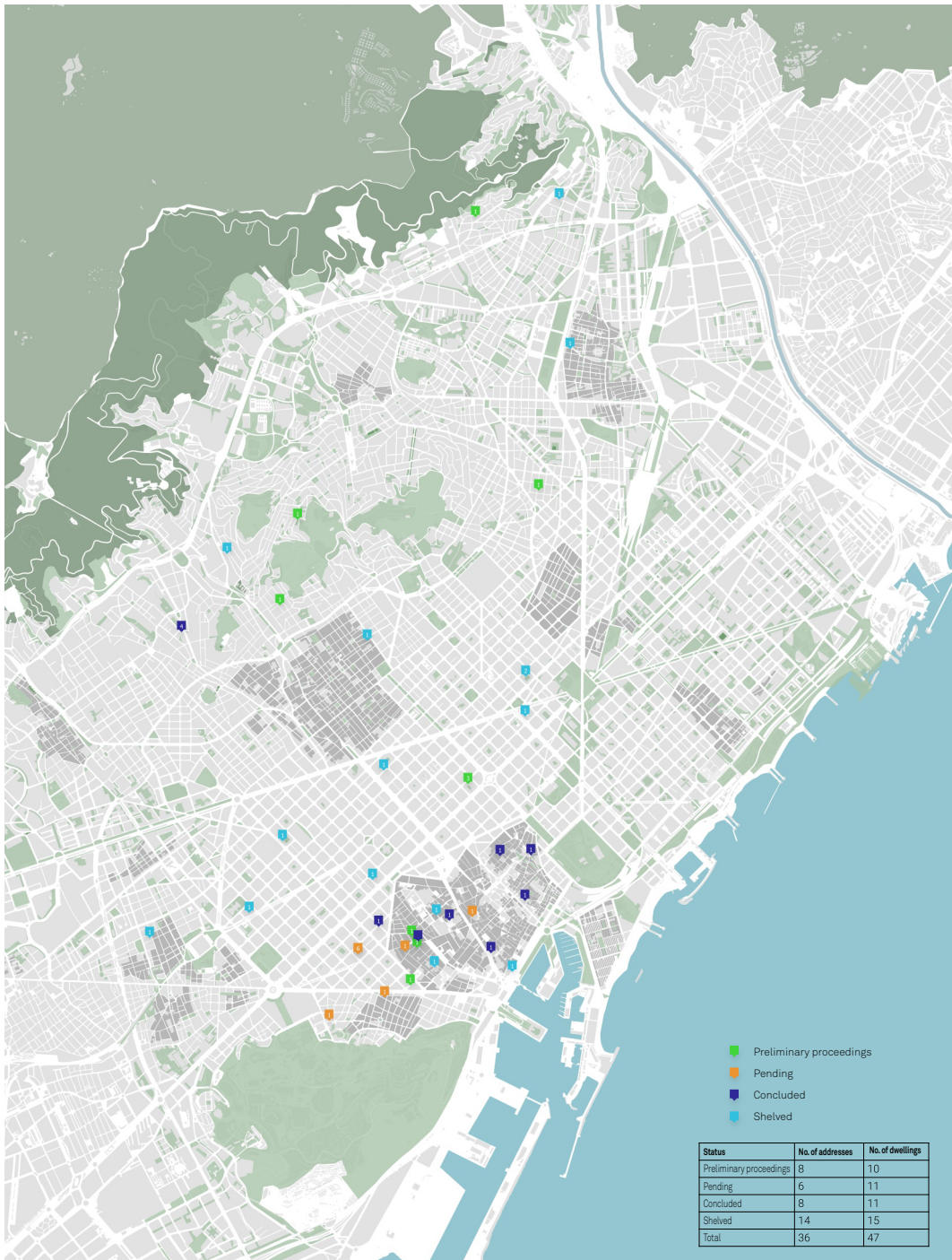
SOLUTIONS	HOUSEHOLD UNITS ATTENDED TO	PERCENTAGE (%)
End to harassment following mediation or other intervention	14	54%
Negotiations for municipal acquisition of the property	1	4%
Withdrawn or no irregularities identified	10	38%
New report	1	4%
<b>Total</b>	<b>26</b>	<b>100%</b>



26 cases have been concluded: in 54%, an **agreement was reached through mediation**.



Location of property harassment cases by status. January 2020



Source: Municipal Institute of Housing and Renovation.

## 2.3. Disciplinary action in relation to the proper use of officially protected housing

### What does the proper use of officially protected housing mean?

#### Habitual permanent residence

Article 78(2) of the Right to Housing Act (18/2007) states:

*Officially protected housing must be used as the habitual residence of the owners or occupants. Under no circumstances can it be used as a second home or put to other uses not compatible with housing. A dwelling is regarded as not being used as a person's habitual and permanent residence if the person with the duty to do so does not occupy the dwelling for three months in succession in a year without a reason to justify that. Non-compliance with this condition is a breach of the social function and, notwithstanding the applicable sanctions, gives the Administration the right to immediate expropriation.*

#### Renting housing with official protection

Article 78(3) and Article 82(4) of the Right to Housing Act (18/2007) states:

*Dwellings with official protection may not be sublet or partially let, except when they are the property of public authorities, their instrumental bodies or non-profit organisations the purpose of which is to accommodate vulnerable groups in need of special care.*

Exceptionally and in accordance with Article 82(4) of the Act:

*Authorisation may be given to owners of dwellings with official protection to rent out the dwelling or assign its use in another way in cases expressly allowed by the competent public authority and under the conditions set by the latter.*

**In 2018, disciplinary action was started in the case of improper use of HPO housing, the first time a systematic inspection of this kind of housing has been carried out in Catalonia.**

#### TESTIMONIES

*Thanks to the inspection plan, numerous cases of irregularities in leasing HPO dwellings have been detected: leasing without public authority authorisation and price above the market price according to the regulations. Cases have been found where tenants were paying double the stipulated price, as in the case of Maria from Barceloneta, Abdul from Sant Andreu and Pilar from Nou Barris. Faced with these anomalous situations, the owner has been fined and the legality of the rental contracts has been restored with the applicable authorisation and price. So, if the rents were between €1,000 and €1,200 a month before, now they are between €600 and €700.*

”

At present, there are 130,000 dwellings with official protection in force in Catalonia.

Historically, Barcelona has regularly developed this kind of housing (HPO in Catalan), both public and private, and mainly for sale. The HPO housing stock in the city reached its maximum level in the decade 1990-2000. Since then, the stock has gradually declined, partly because the period of official protection status has ended, and partly because few new flats or houses have been built. Loss of that status means those dwellings, for which both the developers and buyers have received public grants and subsidies, join the free-market housing stock and cease to be governed by the terms and conditions of public housing.

At the end of 2016, there were about 16,000 dwellings in the city with HPO status in force (including those with that status indefinitely and those with an end date). In a context where affordable housing has become a priority, with market prices going through the roof, controls were needed to ensure the HPO stock was used for the purpose for which it was built: to be the habitual permanent residence of the owners or people authorised to live there.

With that in mind, the City Council initiated a programme to control the use of HPO for sale that still existed in the city. This is the first time that the local authority has carried out a systematic inspection of this housing stock, and it has resulted in as many as 2,862 dwellings being inspected. Of the 2,034 already checked, the owner is making proper use of the dwellings in 81.8% of the cases. However, a percentage have infringed the use regulations. Common infringements include leasing the dwelling at prices higher than those legally established and without permission from the Housing Agency, use by people other than the owner and keeping the dwellings vacant, without putting them to any use.

The purpose of this programme is neither to collect revenue nor impose fines but to raise awareness of the need to comply with the purpose and conditions for which the dwellings were built, and restore their original use.

Barcelona currently has 13,500 dwellings with HPO status in force but which has an end date. So, when that is reached, they will become free-market dwellings.

This situation affects all HPO housing in the city, which means only public housing or housing run by social organisations will retain their affordability.

The new Decree 17/2019 establishes an indefinite period of HPO status for housing built on land allocated for such housing, as well as housing included in the public property of land and housing. This legislative amendment will put an end to the current anomaly, where the effort put into generating an affordable housing stock is not translated into the creation and consolidation of a permanent affordable housing stock.

#### TESTIMONIES

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*Another recurring HPO situation is dwellings being left vacant without a valid reason covered by the legislation. In such cases, the owner has been offered the opportunity to put the flat in the Rental Housing Pool in exchange for a partial reduction in the corresponding fine. One of the people to benefit from these types of agreement has been Macarena and her family. Macarena, tetraplegic since birth, has a recognised disability of 84% and is dependent on her parents. The family was living in a very small flat, with no possibility of adapting it to Macarena's care needs, poor ventilation and no lift in the property. Thanks to the transfer of a vacant HPO flat to the Rental Housing Pool, her family is now living in a flat adapted to her needs, in a building with a lift in the Marina de Port neighbourhood of Sants-Montjuïc, near her old home.*

”

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### 2.3.1. Measures for preventing improper use of officially protected housing

HPO access implies a number of conditions set out in the sale contract. All the owners of this type of housing are therefore aware of the need for it to be used as their first home (never their second home, a tourist apartment or kept empty). Also, if the dwelling is rented out with the prior agreement of the Catalan Housing Agency, the rental price must be within the parameters set for HPO and must be rented to people who meet the access requirements.

Improper HPO use thus implies non-compliance with the general legal framework for this kind of housing. At the same time, starting sanction proceedings has been seen as the quickest way to restore legality, so HPO housing is once again affordable housing at the service of people who need it.

Consequently, the preliminary tasks have focused on identifying the HPO stock in the city and being able to ensure its proper use.

### 2.3.2. Types of sanction procedures

In relation to HPO, procedures have been developed that are linked to Article 123(3) of the Catalan Right to Housing Act: Very serious infringements with regard to officially protected housing, in relation to sections a, b and c which refer to not using the dwelling as the habitual and permanent residence, transferring title to those dwellings without prior authorisation and using or having more than one HPO dwelling in one's name:

- a) Not using the dwelling as the habitual permanent residence of the owners or the persons entitled to occupy it, without authorisation.
- a bis) A legal person not adopting, in the course of a natural year from the date of acquiring the dwelling, any of the measures for effective legal compliance with the obligation to make it the habitual permanent residence of natural persons.
- b) The owners, or persons under obligation to occupy the dwelling, transferring its use for any reason, without authorisation.
- c) Using or having more than one officially protected dwelling in one's name.



### 2.3.3. Results obtained

#### Inspections of officially protected housing dwellings carried out

RESULT OF THE INSPECTION	NUMBER	PERCENTAGE (%)
<b>With anomalies</b>	370	12.9%
– Leased for more than the legal price	180	
– People other than the owner live there	131	
– Unoccupied	33	
– With rooms rented out	12	
– Used as a second home	12	
– Use incompatible with housing	2	
<b>No anomalies</b>	1,664	58.3%
<b>Not checked and pending</b>	828	28.8%
<b>Total</b>	<b>2,862</b>	<b>100%</b>

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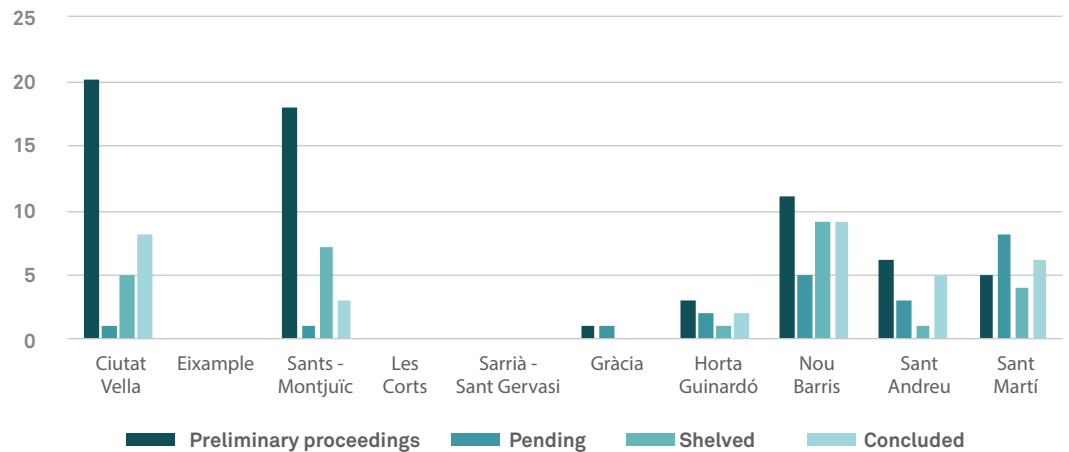
#### Sanction proceedings linked to HPO housing

PRELIMINARY PROCEEDINGS		PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
64	64	21	21	27	27	33	33	145	145

An agreement was reached in 25 HPO dwellings to reduce the rent in line with the legal price and **7 flats have been transferred to the Rental Housing Pool**, resulting in better conditions for 80 people.



### Total dwellings with sanction proceedings linked to HPO housing per district



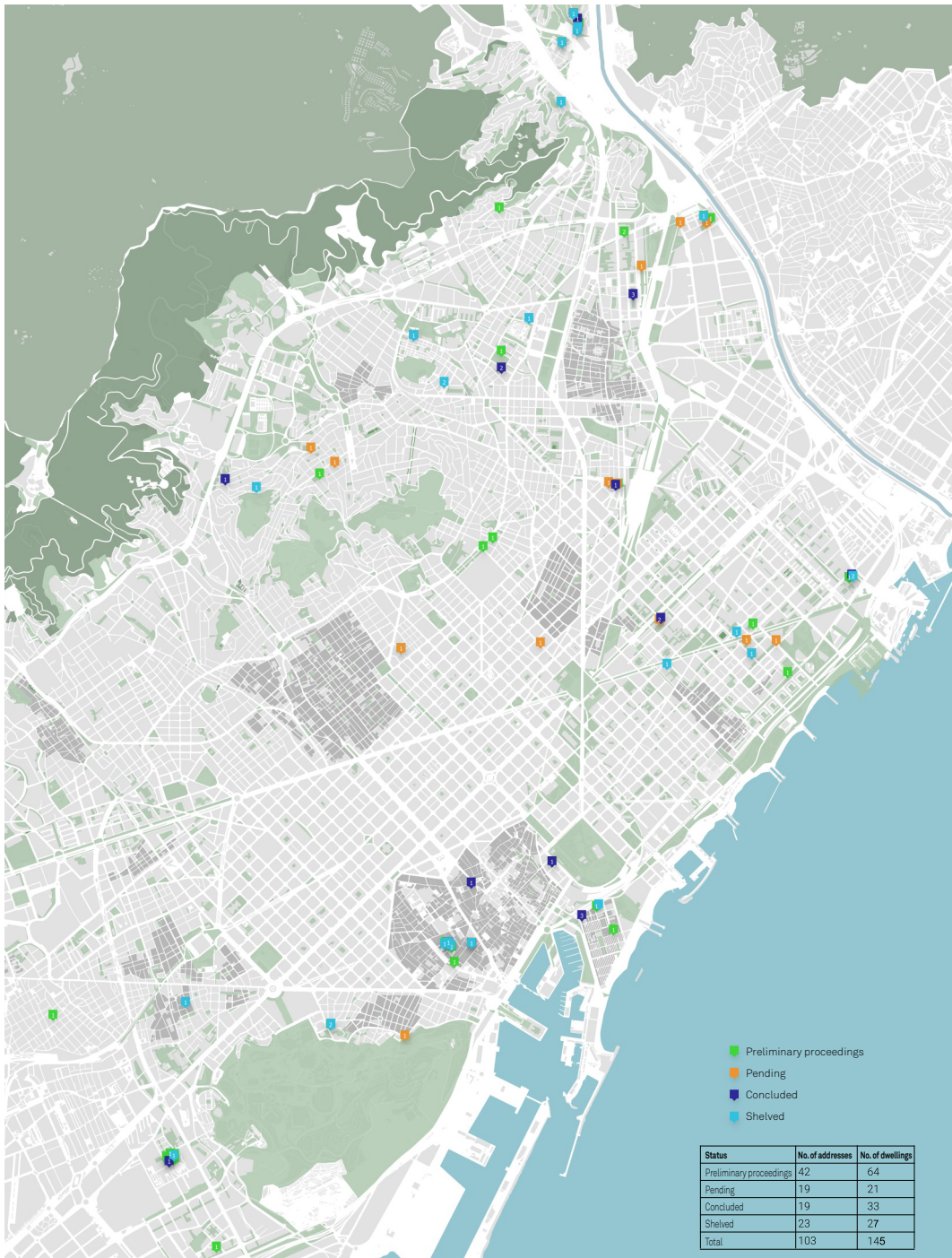
Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

### Reason for concluding the cases

PROPOSAL IMPLEMENTED*	DWELLINGS	PERCENTAGE (%)
Transfer to Rental Housing Pool	7	13.5%
Lower rent in line with the legal limit	25	48.1%
Agreement to reduce the fine	20	36.5%
Sold	1	1.9%
<b>Total</b>	<b>53</b>	<b>100%</b>

\* Different solutions may come together in the same dwelling, for example, an agreement to lower the fine when it has been transferred to the Rental Pool or the rent price has been reduced to adapt it to the legal limit.

Location of cases for improper use of HPO housing by status. January 2020



Source: Municipal Institute of Housing and Renovation.

## 2.4. Disciplinary action in relation to the poor state of repair of the dwelling

*Time period: Ongoing over time*  
*Body responsible: Housing Discipline Anti-Harassment Unit*

### What is understood by poor state of repair of the dwelling?

#### Substandard housing

Article 3(f) of the Right to Housing Act (18/2007) states:

*Substandard housing refers to any property used for housing that has no habitability certificate or fails to meet the conditions required for obtaining one.*

#### Uninhabitable housing

Article 33 of the Right to Housing Act (18/2007) states:

*In cases where use of the dwelling poses a risk for people's health or safety, notwithstanding any urgent eviction measures that may have to be adopted, the competent authority may declare the building affected uninhabitable. The declaration may be temporary or precautionary, while the scope of the deterioration is being examined, in accordance with administrative procedure legislation. Depending on the gravity of the deterioration and the consequent possibility of renovation, the public authority must adopt the most suitable intervention measures established in this Act.*

Conservation and renovation are part of the owner's responsibilities, instruments for guaranteeing the right to a decent and suitable home. It is therefore a primary duty of public authorities to promote housing conservation and renovation. To that end, different programmes have been developed since 2015 to improve the housing stock, aimed at helping owners to carry out this duty (more renovation grants, promoting home interior improvements and the highly complex properties programme in particular).

However, it is a duty that is not always carried out, in individual dwellings or whole buildings or blocks. This prevents tenants in particular from enjoying normal use of the dwelling they are paying rent for. This situation has become worse in recent years, as the financial institutions and their administrators have amassed ownership of a large number of dwellings from mortgage foreclosures, compensation or mortgage security debt payments, which they have not kept in a fit state to live in.

Consequently, apart from measures to encourage these owners to act, we have developed a series of sanctions and execution orders for non-compliance, ranging from coercive fines to expropriation or occupation of the building. At the same time, we have been working on penalising big owners, especially the divestment bank SAREB, for not carrying out the necessary work on dwellings with occupants living in unhealthy or unsafe conditions, so they can secure the living conditions demanded by law and live there in dignity.

#### TESTIMONIES

*On Carrer del Masnou in Sants-Montjuïc, on Carrer Nou de la Rambla in Ciutat Vella and on Carrer d'Ausona in Sant Andreu, there were three flats owned by the disinvestment bank SAREB where the City Council secured better living conditions. Lack of maintenance at the three flats was affecting the health of the residents. Thanks to the City Council's intervention and in compliance with the law, the owner was fined €19,000 and compelled to accept responsibility for the necessary alterations for obtaining the habitability certificate required by law. Minor alterations were carried out, such as rewiring and modifications to the kitchen and bathroom, which did not require the residents to be rehoused but did mean a big improvement in their quality of life.*

”

## 2.4.1. Measures for preventing the poor state of repair of dwellings

To facilitate improvements in the state of housing, since 2015 the renovation work being carried out in the city has been stepped up by **reformulating the existing grants and subsidies with a triple-level intervention approach**. First, the most vulnerable areas, included in the Neighbourhood Plan, through a call for **highly complex properties**; second, specific intervention in **housing interiors** targeted at vulnerable groups and incorporating flats in the Rental Housing Pool; and, third, a general call targeted at **communal spaces in buildings with a focus on safety, accessibility and environmental improvements**.

This change has meant shifting towards a proactive approach which, thanks to the support provided, makes it possible to improve the flats and buildings of the most vulnerable groups and individuals.

Thus, the impulse to discipline in this sphere has involved supplementary action to guarantee the habitability of dwellings being rented where the owners were not willing to carry out the necessary actions for improving and maintaining them in suitable conditions.

D2.3, D2.5 and D2.6

### Programme for highly complex properties

*Time period: 2016 - 2025*

*Body responsible: Barcelona Housing Consortium and Foment de Ciutat*

This addresses intervention in properties which, given their social and economic complexity, are usually left out of ordinary calls for grants and subsidies. These properties were identified thanks to the demarcation of residential vulnerability areas (2016). Since 2017, support work has been carried out which mixes the stimulation of renovation with social and community intervention.

It is based on two agreements: one to lay the basis for the advice and community work and a second for drawing up the plans and carrying out the work. The criteria for gaining access to the grants prioritise buildings with pathologies that affect people's health or pose a safety risk, where resident communities do not function or have arrears, where there are vacant flats, squats or old-style rents, as well as those that have closed their communal services due to lack of community funds.

**Since 2018, when intervention in dwellings began, work has been done in 69 buildings with 1,454 flats, based on a subsidy of €14.3 million.**

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In relation to the state of housing, action has focused on **stepping up renovation with the creation of the Highly Complex Properties Programme** (targeted at more vulnerable areas) and more home interior improvements to make flats available.



### Improvements in home interiors

*Time period: 2016 - 2025*

*Body responsible: Barcelona Housing Consortium and Foment de Ciutat*

Renovation grants for the interior of flats to be included in the Barcelona Rental Housing Pool. These grants will go towards adapting the homes and ensuring they meet habitability standards. They allow all the costs of the work to be covered up to a maximum of €20,000 per dwelling.

**Since 2016, these grants have helped to improve 506 flats, which have been included in the affordable Rental Housing Pool, with a subsidy of €7.76M.**

### 2.4.2. Types of sanction procedures

Two types of sanction proceedings have been developed for flats and buildings in a poor state of repair.

- **Conservation orders**

*Proceedings linked to Decree Law 1/2015, on extraordinary and urgent measures for mobilising housing coming from mortgage foreclosure processes. Conservation orders are targeted at banks and financial institutions that have vacant housing in a poor state of repair.*

*This does not include conservation orders imposed by the urban planning services, linked to the general upkeep of all kinds of buildings that may cause public safety problems.*

- **Procedure for substandard and uninhabitable housing**

Affects both natural as well as legal persons with properties identified as substandard or which do not comply with habitability conditions.





### 2.4.3. Results obtained

The identification of housing in a poor state of repair, reported by residents or identified by the municipal services themselves (especially housing offices and basic social services who work directly with the people affected), has enabled work to be done on 40 flats to turn around possible situations of poor state of repair.

Work has been done on 40 flats to improve the living conditions of the 100 or so people living in them.

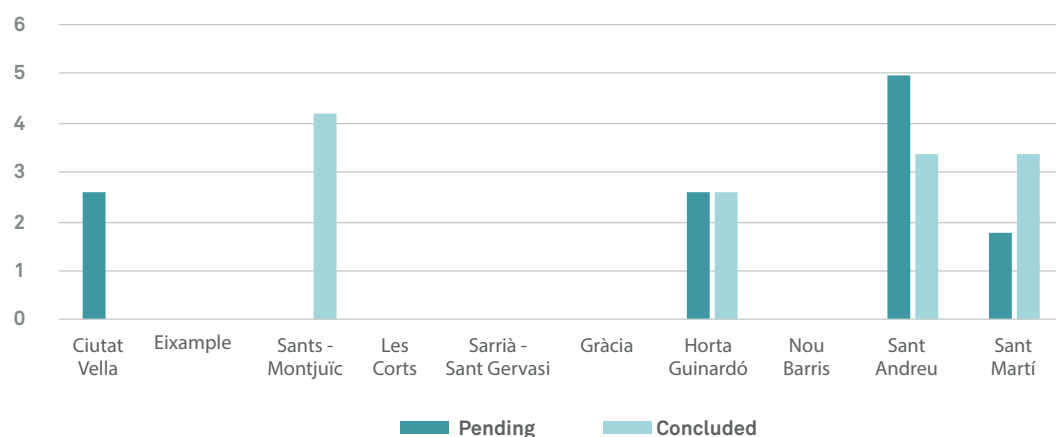
#### Conservation orders

*Includes sanction proceedings linked to Act 1/2015 for not carrying out the work needed to comply with dwelling habitability requirements.*

#### Housing possibly in a poor state of repair with conservation orders linked to Act 1/2015

PENDING		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
10	10	12	12	22	22

#### Dwellings with conservation orders (Act 1/2015) per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

Of the three cases concluded, €10,490.12 has been paid in one case, and in another €90,000 is being collected. The third case is pending imposition of a fine.

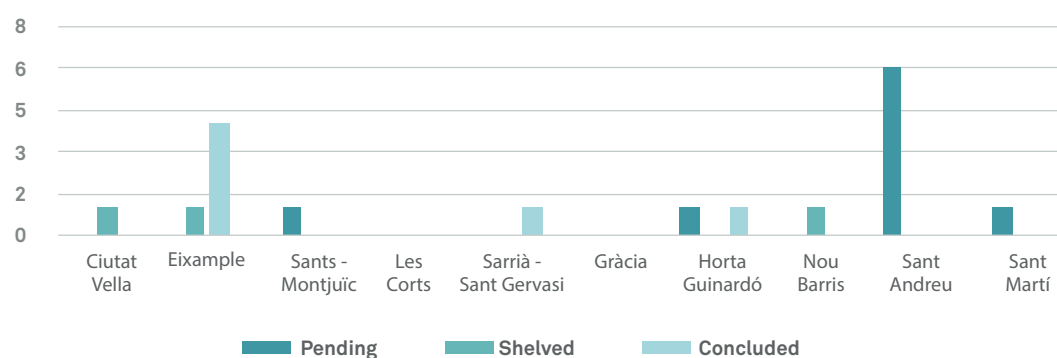
### Sanction proceedings linked to substandard housing, Act 18/2007

These proceedings, involving conservation orders and substandard housing, have resulted in the owners of six dwellings being sanctioned. In each case, the owner has had to pay the fine and carry out improvements to make the dwelling habitable and establish healthy living conditions, which has meant eliminating damp or sanitary and kitchen improvements, among other things.

### Sanction proceedings linked to substandard housing

PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
4	9	3	6	3	3	10	18

### Dwellings with sanction proceedings for being substandard per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

**Location of poor state of repair cases by status. January 2020**



\* Includes cases linked to substandard housing, cases linked to Article 3 DL 1/2015 and conservation orders or Article 4 DL 1/2015.

Source: Municipal Institute of Housing and Renovation.

## 2.5. Disciplinary action where a social rent is not offered

*Time period: Ongoing over time*

*Body responsible: Housing Discipline Department at the IMHAB*

### When must an offer of social rental flat be made?

Article 5 of Act 24/2015, on urgent measures for tackling the housing emergency and energy poverty states:

1. Before acquiring a dwelling resulting from a compensation agreement or in lieu of payment of mortgage loans for a habitual residence, or before signing the purchase/sale contract of a dwelling where the sale is taking place because it is impossible for the borrower to repay the mortgage, the acquirer shall propose a social rent to those concerned if the acquisition or sale affects persons or family units who have no alternative dwelling of their own and find themselves in the parameters of risk of residential exclusion defined by this Act. The duty to check these circumstances falls on the acquirer, who shall first request this information from the persons concerned.

2. Before lodging any judicial demand for a foreclosure or eviction for non-payment of rent, the petitioner shall make an offer of a social rent to those concerned if the proceedings affect persons or family units who have no alternative dwelling of their own and find themselves in the parameters of risk of residential exclusion defined by this Act, a circumstance that the petitioner shall verify, requesting that information from those concerned, and provided one of the following two cases applies:

a) The petitioner is a legal person that owns multiple properties.

### TESTIMONIES

*A family of four was living on Carrer de Finlàndia in the Sants neighbourhood. Due to a change in their economic circumstances, they were unable to continue paying their rent. This persuaded the owner to begin the process of evicting them. Once their situation had been reported to the local housing office, the Housing Discipline Unit found out their flat was the property of a big owner which, in compliance with the law, had the duty to offer the family a social rent in line with their income.*

”

b) The petitioner is a legal person that, since 30 April 2008, has acquired dwellings in first or subsequent transfers coming from mortgage foreclosures arising out of debt compensation or in lieu of payment agreements or arising out of sales caused by the impossibility of a mortgage loan being repaid.

The precautionary suspension of part of Act 24/2015 (May 2016 to February 2019) and subsequently of Act 4/2016 (October 2017 to February 2019) affected, among other aspects, the mandatory offer of a social rent by big property owners. It meant the proceedings started following approval of Act 24/2015 were halted. However, restoration of the legislation meant a renewed impulse to those proceedings throughout 2019 to ensure no evictions took place.

**The precautionary suspension of Acts 24/2015 and 4/2016 halted all proceedings under way but the lifting of that suspension enabled the sanction proceedings for not offering a social rent to be started again in 2019.**

## 2.5.1. Measures for preventing a social rent not being offered



To inform property owners of their duty to offer a social rent prior to lodging any judicial demand for foreclosure or eviction, letters are sent to big owners who have this duty to get them to carry it out.

Initially, letters were sent to the main ones in the city, to remind them of the need to make the offer of social rent. Now specific letters are sent out to the owner of the building, in cases where there is a risk of someone losing their home. A total of 88 letters were sent in the course of 2019. The pace has speeded up in 2020, with 186 letters sent already and a further 74 pending, as it has not been possible to send them due to the health crisis.

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### TESTIMONIES

*In Nou Barris, Ms Voski and her two children were living in a flat rented from an investment fund for €800 a month. Ms Voski could afford this when she was working but, following the start of health problems and recognition of a disability, her purchasing power was reduced and, with it the possibility of paying the rent. As a result, the owner repeatedly tried to evict the family. Ms Voski turned to the PAH for help and this mortgage victims platform took her case to the City Council. With Act 24/2015 in force again, the Housing Discipline Unit had an instrument at its disposal to force the owner to offer the family a social rent for seven years. They are currently paying around €300 and still living in their home.*

”

A key role in the proceedings in this sphere has been played by residents associations and organisations that defend the right to housing, which have reported and notified the authorities of situations where big property owners have not offered a social rent.

Over 270 letters have been sent to big owners to remind them of **their duty to offer a social rent to households in a vulnerable situation.**



## 2.5.2. Types of sanction procedures

In cases where a social rent has not been offered, proceedings have been implemented linked to Article 124(2) of the Catalan Right to Housing Act: *Serious infringements with regard to protecting housing consumers and users in the property market.*

Section i)

*Not formulating the mandatory offer of a social rent in cases where this is required by Act 24/2015, of 29 July, on urgent measures for tackling the housing emergency and energy poverty.*

Section j)

*Non-compliance, in formulating the mandatory social rent offer, with the requirements established by the definition of social rent in Article 5(7) and Section 2 of the First Additional Provision of Act 24/2015, of 29 July, on urgent measures for tackling the housing emergency and energy poverty.*

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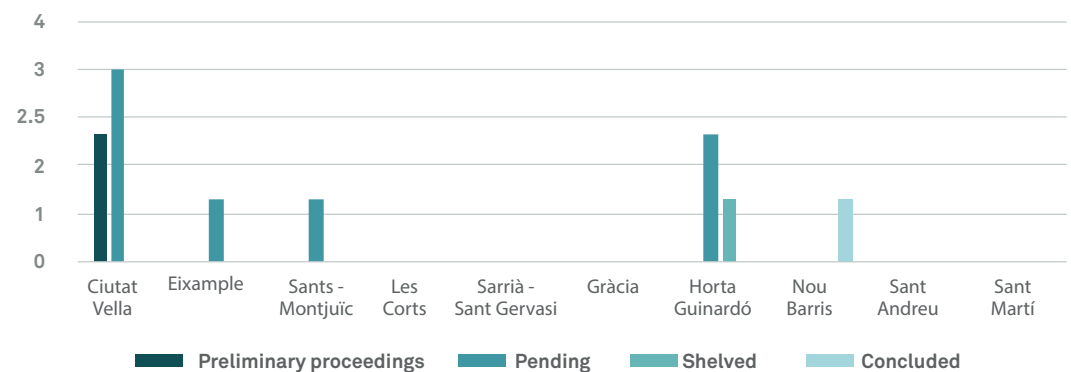
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## 2.5.3. Results obtained

### Dwellings proceedings for not offering a social rent

PRELIMINARY PROCEEDINGS		PENDING		SHELVED		CONCLUDED		TOTAL	
Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings	Cases	Dwellings
2	2	7	7	1	1	1	1	11	11

### Household proceedings for not offering a social rent per district



Source: Drawn up by the authors from data provided by the Housing Discipline Anti-Harassment Unit.

## 2.6. Disciplinary action in relation to flats used as tourist apartments

*Time period: 2017 - 2019*

*Body responsible: Barcelona City Council – Area of Urban Planning and Development.*

*(Disciplinary action linked to flats used as tourist apartments is carried out by the Urban Planning Services.)*

### What is understood by a flat used for tourism without authorisation?

Article 66 of Decree 159/2012 on tourist accommodation establishments states:

1. Dwellings considered to be for tourist use are those transferred by their owner, directly or indirectly, to third parties, in exchange for economic compensation, for a seasonal stay, in conditions of immediate availability and with the characteristics established by this Decree.

Article 68 of the same decree states:

1. Prior to dwellings for tourist use beginning this activity, the corresponding notification shall be submitted to the competent authority, signed by the owner and also, where appropriate, by the natural or legal person to whom the owner has previously entrusted management of the dwelling in question.
6. A dwelling may not be destined for tourist use if this is prohibited by the byelaw on uses of the sector where it is located or prohibited by the statutes of the community duly entered in the register of property in buildings subject to the horizontal system.

On 27 January 2017, Barcelona approved the Special Urban Plan for Tourist Accommodation (PEUAT) with the aim of avoiding excessive concentration and ensuring a balanced distribution of tourist use. This regulation was also meant to reduce public unease about the effects of tourism and to ensure everyone's right to housing.

To enable compliance with it, a plan was drawn up for inspecting unauthorised tourist lets that has made it possible to control the number of tourist-use flats in the city.



## 2.6.1. Measures for preventing unauthorised tourist use

Besides inspections of flats for tourist use, checks are being carried out to ensure those advertised on various online platforms have the appropriate authorisation. This has enabled 8,639 adverts to be removed since 2017.

## 2.6.2. Results obtained

Activity linked to penalising the use of flats for tourist purposes increased from 2014 to 2017 but sanction proceedings fell in 2018 along with the cessation of tourist use in flats not authorised for that. This can be attributed to a fall in illegal activity, coinciding with a 30% drop in the number of complaints from the public.

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### Action taken against flats used as tourist apartments (HUTs)

	PROCEEDINGS STARTED	ACTIVITIES CEASED	SANCTION PROCEEDINGS
2014	446	265	265
2015	2,110	398	736
2016	4,341	1,289	1,993
2017	4,963	2,388	3,015
2018	3,668	1,226	1,444
2019	2,800	1,395	1,592
<b>Total</b>	<b>18,328</b>	<b>6,961</b>	<b>9,045</b>

In line with the average occupancy of flats in Barcelona, the **6,961 tourist-use flats where this activity has been forced to cease will enable 17,333 people to be housed.**

(The average occupancy of domiciles in Barcelona, according to the 2019 municipal residents' register, is 2.49 persons per dwelling.)

## 3 RESULTS OBTAINED

The work done to prevent the anomalous use of housing and those actions contrary to the right to a decent home has produced results, stemming from actions prior to the application of housing discipline as well as disciplinary proceedings.

### 3.1. Results of the preventive actions undertaken

The main measures adopted to improve the quality of flats and encourage their use as affordable dwellings have been the main line of municipal action. Imposing sanctions has been viewed as a supplementary measure that helps to defend the right to a decent home and put a stop to anomalous uses.

Accordingly, it is worth highlighting the following results:

- The strengthening of programmes to attract vacant housing meant that, at the end of 2019, the City Council was handling 1,155 flats to be let at affordable and social rents. At the same time, the municipal authorities have acquired the use of 181 flats (100 of which were vacant) and, since 2016, ownership of 746 (47.6% of which were unoccupied).
- In relation to property harassment, 475 preliminary housing reports submitted have been studied to ensure users' rights are being respected in renovation, repair and demolition operations. Of these, 81.5% have received a favourable decision (22.5% after some adjustments). And, by means of the agreement signed with the Barcelona Bar Association (ICAB), 340 assessments have been given, 9 to organisations.
- With regard to poor state of repair, since 2016, renovation grants have been awarded to over 53,000 dwellings at a cost of €110M. Also in this period, grants have been instituted for renovating highly complex properties, which has enabled a start to be made on improving 69 buildings with 1,454 flats. That has been possible thanks to a subsidy of €14.3M. Grants have also been increased to attract flats through the Rental Pool, and which have facilitated the improvement of 506 flats, thanks to a subsidy of €7.76M. If we take into account both public and private investment, this intervention has enabled 170,000 jobs to be created.
- Finally, monitoring flats for tourist use has enabled us, since 2017, to get the adverts for 8,639 illegal tourist-use flats withdrawn.

## 3.2. Results of the disciplinary actions undertaken

The objective of housing discipline is the cessation of activities that have led to the initiation of proceedings. This can be achieved by reaching an agreement or by imposing a sanction, as the improper use has not ceased in the established terms.

The work carried out has enabled the transfer of dwellings, an end to harassment processes or a reduction in rents, among other things. It has also

resulted in the imposition of fines, a necessary process in continuing to work for a change in the outlook of owners regarding their limits and the need for those to be adapted to the right to housing. The money raised by these fines will go towards housing policies. They will therefore have a double effect on defending the right to housing and on establishing prevention and support mechanisms.

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### Results obtained on the basis of the disciplinary work carried out (until 31 January 2020)

TYPE OF DISCIPLINARY PROCEEDINGS	DWELLINGS AFFECTED	BENEFICIARIES
Transfer – expropriation – acquisition	196	490
Transfer to the Rental Housing Pool	8	
Transfer of use <sup>1</sup>	181	
Expropriation for use	6	
Acquisition negotiations	1	
Lower rent	28	70
Agreements to end harassment	14	35
Agreement through mediation	11	
End to harassment	3	
Unauthorised tourist use ceased	6,981	
Flat improvements	6	15
Action to prevent no offer of social rent	11	27
Letters sent to big owners to remind them of their duty to offer a social rent	270	
Fines and penalties imposed <sup>2</sup>	67	

<sup>1</sup> Includes dwellings obtained through the transfer of use agreement with the SAREB and BuildingCenter, as sanction proceedings have led to the transfer of the dwellings.

<sup>2</sup> Does not include those relating to tourist-use dwellings.

Based on the measures adopted, a further **196 dwellings have been added to the affordable housing stock**, 14 cases of harassment have been stopped and the rents for 28 dwellings have been reduced.



### Total fines and sanctions imposed by type

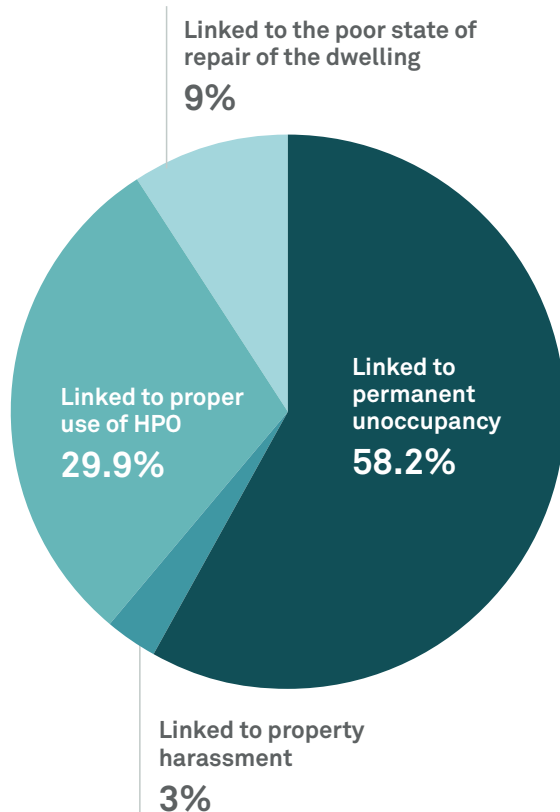
TYPE OF DISCIPLINARY PROCEEDINGS	TOTAL SANCTIONS IMPOSED		
	Dwellings	Amount*	% dwellings
Linked to permanent unoccupancy	39	€1,548,394.30	58.1%
Linked to property harassment	2	€270,001.00	3.0%
Linked to proper use of HPO	20	€172,671.08	29.9%
Linked to the poor state of repair of the dwelling	6	€135,208.99	9.0%
<b>Total for Barcelona</b>	<b>67</b>	<b>€2,126,275.2</b>	<b>100.0%</b>

\* Information updated in 2020.

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### Fines and penalties imposed by type



As of July 2020, fines have been imposed on 67 dwellings for a total value of €2,126,275.2, of which €910,464.64 has been collected.

All the money must be allocated to housing policies.

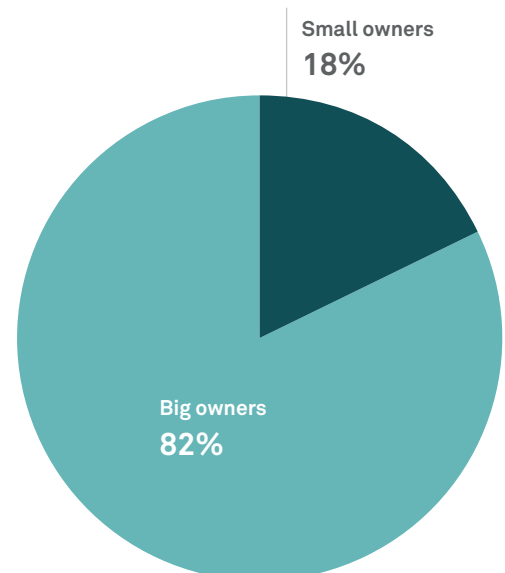
## 4 DISCIPLINE DEPENDING ON THE TYPE OF OWNER

A large part of the disciplinary actions carried out have been linked to big property owners, although only the vacant housing actions have focused on them as a priority.

**82% of the cases handled (762 cases) have involved big owners.**

TYPE OF PROCEEDINGS	DWELLINGS
Sanction proceedings for permanently unoccupied dwellings Targeted solely at big property owners	702 cases
Property harassment proceedings Targeted at small and big owners	36 cases 14 small owners 22 big owners
Proceedings for improper use of HPO Targeted at small owners	145 cases
Proceedings for poor state of repair Targeted at small and big owners	32 cases 5 small owners 27 big owners
Proceedings for not offering a social rent Targeted solely at big property owners	11 cases
<b>Total</b>	<b>926 cases</b> 164 small owners 762 big owners

Owners of sanctions imposed by type



## 5 CONCLUSIONS

Property harassment has become one of the main obstacles to enjoying the right to a decent home in Barcelona and other major cities. So, towards the end of 2015, and following the example of cities such as London and New York, the City Council pushed for a working team to be set up specifically to combat various violations of the right to a home associated with property speculation.

The aim of this team, comprising 10 professionals, is to use all the legal and mediation tools available to it in order to detect and put a stop to property abuses. Below is an outline of the main things that have been learnt in the four years since the team was set up.



### 1. The vital role of social and residents' organisations in defending the right to housing

One of the main ways that systematic violations to the right to a home can be detected and eradicated is by the people affected reporting them and organising themselves through social and residents' movements. The city's social fabric has traditionally played **a key role both in publicising housing rights and making the general public aware of the resources offered by the public authorities to tackle the violation of their rights.**

Because of their roots in the neighbourhoods, these organisations are an indispensable player that, apart from alerting citizens and the authorities to these actions, carries out vital mobilisation and support work.

This role has been particularly important in promoting contentious proceedings against discrimination and property harassment. In particular, joint work has enabled 26 cases of property harassment **to be detected, and in 54% of those cases the abusive situations have been halted through mediation, without the need to start sanction proceedings.**



### 2. The need to know the actual state of the stock

It is difficult to see how suitable policies can be developed without in-depth knowledge of the housing situation in the city. So the first step was to draw up systematic inspection plans for detecting the different anti-social housing uses provided for in current legislation that had previously gone unnoticed.

This has been a huge task involving **the inspection of as many as 118,587 dwellings, which has led to legal proceedings being started in 9,972 cases linked to anomalous uses of protected (HPO) housing, vacant flats and illegal tourist-use flats affecting 10,105 dwellings.**

**More specifically, the inspection work has resulted in 6,961 flats no longer being used illegally for tourist purposes, and the withdrawal of 8,639 advertisements marketing them.** Those flats have turned to the free market at the disposition of city residents.

The inspections have also enabled the

city's **first vacant dwellings census** to be drawn up and which has revealed that, in contrast to earlier periods, **only 1.22% of the city's housing is vacant**. That is a low percentage if we bear in mind it is estimated that at least 3% of flats need to be unoccupied to ensure resident turnover and the proper functioning of the rental market.



### 3. Big owners are the focus of disciplinary proceedings

The bulk of disciplinary proceedings, 82%, are to do with big property owners not complying with legislation. And the reason for that lies in the concentration of vacant flats in their hands. Therefore, **the owners have been urged to enable the use of those flats or transfer their use to the housing institute, IMHAB, as a first step in reversing their current vacant status.**

Faced with the difficulty in getting the owners to do this in some cases, the Housing Discipline Unit first imposed coercive fines of which seven, totalling €65,000, have been paid. The process was subsequently modified and currently the Unit is working along two lines: implementing sanction proceedings and expropriating dwellings. More specifically, a further 22 flats have been penalised with a fine totalling €1.3M, and six have been expropriated so they can be offered at an affordable, social rent.

In addition, agreements were established, between 2016 and 2019, **with the SAREB and BuildingCenter, granting use of 181 flats for 8 years** (100 of them previously

vacant) at an average price per flat of €8,748 plus renovation costs, which **works out at €91 per month** (plus renovation costs).



### 4. The aim of housing discipline is to stop abuse and expand the affordable stock

While this is not the main aim of disciplinary action, the addition of flats to the affordable housing stock is one of the important consequences stemming from it.

Accordingly, the Housing Discipline Anti-Harassment Unit launched the first systematic control and inspection plan for officially protected housing (HPO) in Catalonia. The plan's objective is to check whether HPO flats in Barcelona respect the corresponding regulations.

While the great majority of flats inspected do just that, infringements were found in 18.2% of those where the situation could be checked. Following various actions, the Unit **has managed to get 25 HPO rents reduced in line with the legal price, and seven flats have been transferred to the Rental Pool.**

In total, between those transferred to the Rental Pool or for use by the SAREB and BuildingCenter, those temporarily expropriated and those acquired below the market price as a result of mediation, **196 flats have been added to the affordable housing stock under municipal management, benefiting 490 people.**



## 5. The importance of prevention

Knowledge of the housing stock, teaming up with social organisations and the advice work of housing offices provide an opportunity to make progress in applying preventive measures. They serve in the preliminary stages, when there is still no dysfunction or it is embryonic and much easier to find a satisfactory solution.

Work has been done in different areas:

- To tackle the problem of vacant housing, we have strengthened the **programmes for mobilising housing for affordable rents** through the Rental Housing Pool and an agreement with Hàbitat 3 so that by the end of 2019, they were administering 1,155 flats with affordable social rents. To make that possible, renovation grants have been increased for flats so they can be incorporated into the Rental Pool. The €7.76M allocated for that has contributed to the improvements in 506 flats.
- To reduce property harassment in major renovation projects, the **Regulatory Byelaw on Municipal Intervention Procedures in Building Work (ORPIMO) was amended to introduce the duty on the part of the owner to inform the building's residents that their rights are guaranteed during the work.** In all, 475 rehousing plans have been assessed and 81.5% received favourable decisions.
- Furthermore, the Ciutat Vella district has expanded the team of harassment and discrimination specialists by means of an agreement with the **Barcelona Bar Association (ICAB)**, which has facilitated access to free legal aid and advice for residents associations, and resulted in **340 petitions being dealt with in 2019.**

- To improve the housing state of repair and prevent possible situations of harassment and substandard housing, **financial help for renovations has been increased and expanded.** Since 2016, grants worth a total of €110M have been awarded to 53,000 dwellings. These have included general building improvements as well as home interior improvements to attract flats for the Rental Housing Pool, and a new line of grants for highly complex properties. The latter is a case of proactive action based on support for the community throughout the whole planning and work process. So far, 69 buildings with 1,455 flats have accessed the programme, which has been allocated a €14.3M subsidy.



## 6. Fines and sanctions: double-edged tools

From the outset, it has been pointed out that housing discipline is not revenue motivated. However, its legal proceedings fall within the current legal framework, which not only provides for restoring the right to housing but also for imposing fines and sanctions when infringements are committed.

**In the 9,972 proceedings started, 67 fines and sanctions have been imposed with a total amount of €2,126,275.20, which will go towards housing policies.**

It is worth mentioning that whenever it has been possible to reach agreements for flats to be transferred, the amount of the fine has been reduced in line with legislation provisions.

Fines and sanctions therefore serve a double purpose: on the one hand,



they have a very significant dissuasive and coercive effect on offenders and the property sector as a whole and, on the other hand, they give an impulse to mechanisms that guarantee the right to housing.



### 7. Improvement in the situation of the people affected

All the legislative, methodological and procedural architecture gathered in this report really makes sense when we become aware of **the impact the measures applied have on people**.

Having a place to live is vital but, as has been made clear, often that is not enough. In order for a dwelling to become a home, it is necessary to take into account the quality of life it offers the people who live in it.

That is the reason why disciplinary actions work on access, maintenance and the proper use of housing. In many cases, the first step in these actions is at a housing office, the place where people go to report their situation. That way, the City Council becomes aware of the case and can initiate the relevant proceedings. **Since the start of 2015, 610 people have directly benefited from the action of the Housing Discipline Anti-Harassment Unit. At the same time, stopping unauthorised flats being put to tourist use means that 17,333 more people can be offered a home.**

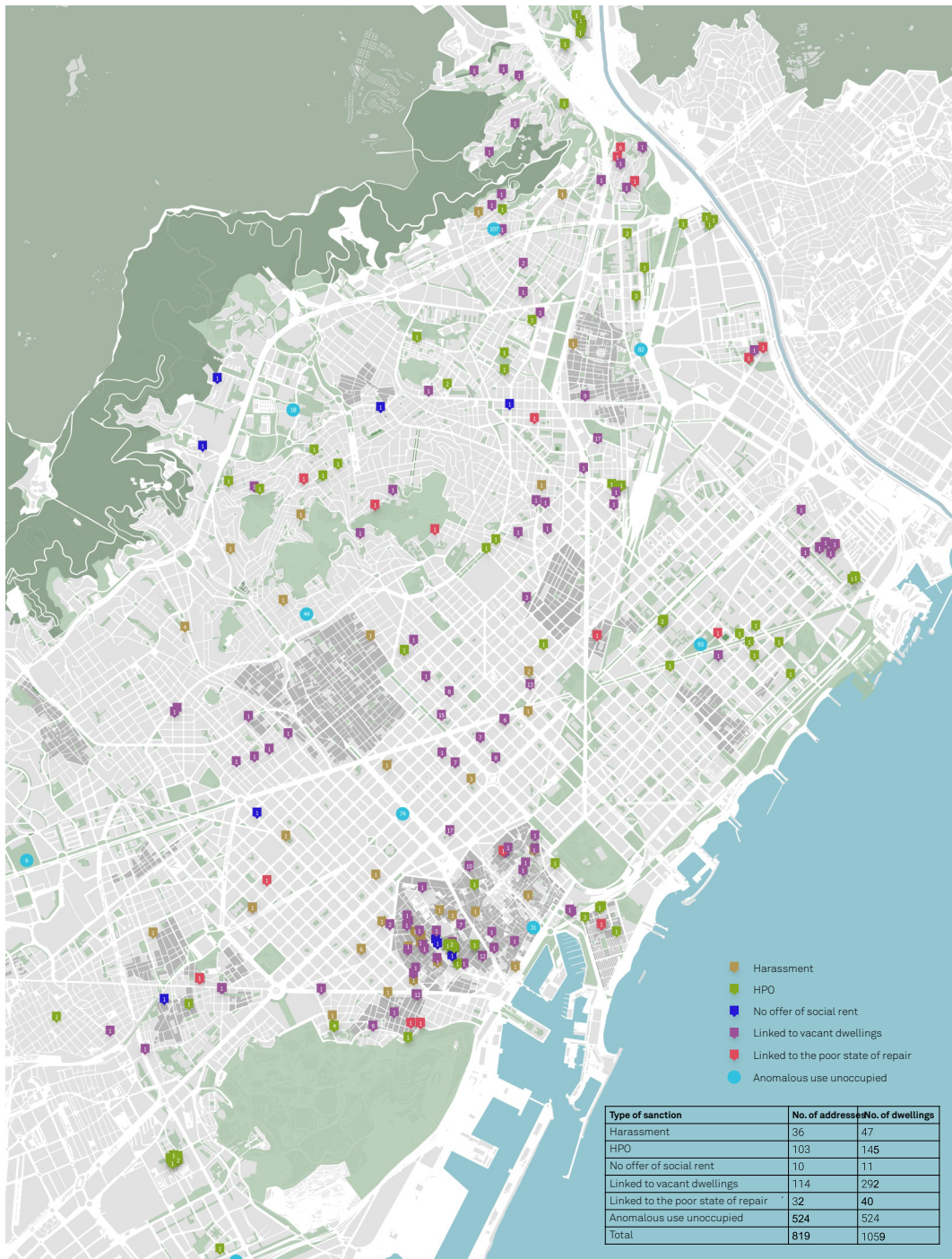


### 8. Towards a new housing concept

After four years of promoting this area of work, **a new stage has now opened with the challenge of involving all the public authorities as well as the private sector**. In this stage, while continuing the inspection and sanctioning work, we will have to insist on a change of chip with regard to the concept of housing as a commodity and, consequently, the development of anti-social and speculative practices.

While in the short and medium terms discipline is an area of work that needs consolidating and expanding, we should be able to imagine a long-term scenario where it would not be necessary. That would mean all the players in our society would have to accept housing as a right and, therefore, it would not be the object of speculation.

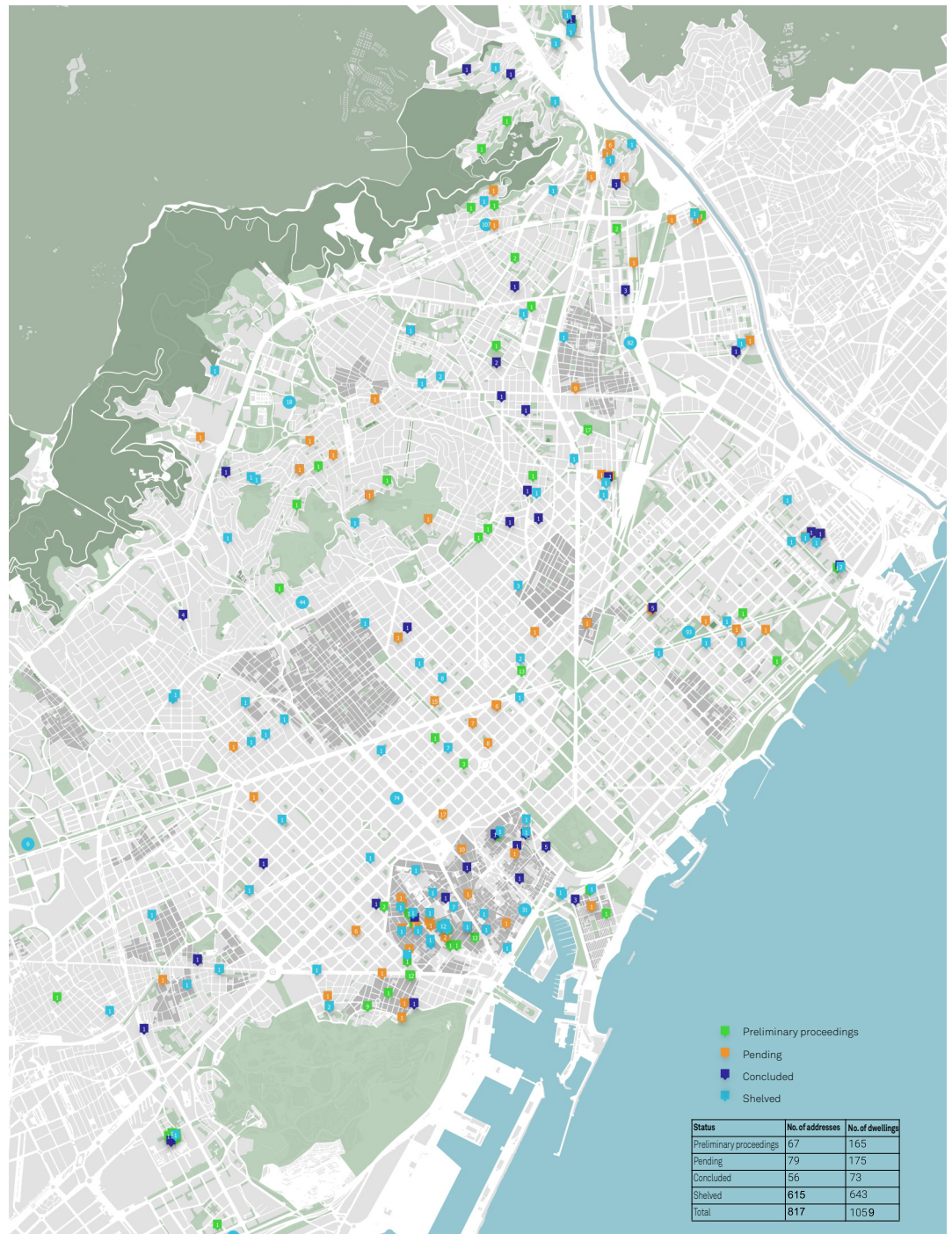
Location of the different sanction proceedings by type. January 2020



\* Cases linked to vacant dwellings include the following: sanctions for permanently unoccupied dwellings, temporary expropriation and no entry in the RHBO property register.

\*\* Cases linked to the poor state of repair of the dwellings include the following: sanctions for substandard housing, sanctions linked to Article 3 DL 1/2015 and conservation orders or Article 4 DL 1/2015.

Location of the different sanction proceedings according to their status. January 2020



Source: Municipal Institute of Housing and Renovation.



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