

Ms. Leilani Farha
Special Rapporteur on adequate housing
Special Procedures Branch
OHCHR
Palais des Nations
1211 Geneva

OHCHR REGISTRY

Zurich, January 27, 2020

- 3 FEB 2020

Recipients : *SPB*

Your letter of November 25, 2019, regarding the right to adequate housing

Dear Ms. Farha

We are writing with reference to your letter of November 25, 2019, to Mr. Tidjane Thiam, CEO of Credit Suisse Group AG, and Mr. Philip Hess, Chairman of the Board of Trustees of the Pension Fund of Credit Suisse Group (Switzerland) (the "Pension Fund").

The «Brunaupark» and «Schorenweg» properties have different owners and stakeholders. The role of the Credit Suisse branded entities in these construction projects is also different as is their legal, operational and strategic idiosyncratic independence. As a consequence and to avoid misunderstandings, the Pension Fund and Credit Suisse Asset Management (Schweiz) AG are replying separately, and we have the pleasure to remit to you attached hereto their letters.

The owner of the «Brunaupark» property is the Pension Fund, a foundation providing employee benefits insurance. This insurance establishes the second of Switzerland's three pillar pension system for employees and their respective dependents. In accordance with Swiss law, corporate pension funds as the Pension Fund are managed and supervised by a board of trustees, consisting of an equal number of employer and employee representatives.

The owner of the «Schorenweg» project in Basel is SIAT Immobilien AG, a real estate company belonging to the publicly listed Real Estate Fund SIAT (the «REF Siat Fund») which is managed by Credit Suisse Asset Management (Switzerland) Ltd. («CSAM»). We understand that a significant part of the REF Siat Fund is held by pension funds, which pursue the same objectives as the Pension Fund of Credit Suisse.

We would like to highlight that, through its active engagement in the «Thun Group of Banks»¹, Credit Suisse as a group at an early stage has shown its support for the UN Guiding Principles on Business and Human Rights and the related corporate responsibility to respect human rights.

¹ The Thun Group is an informal group of banks who work together with the purpose of understanding how human rights can best be respected and promoted across the breadth of different banking activities. The Thun Group paper of 2013 can be found [here](#), a current description of the Thun Group is provided [here](#).

As expressed in the Thun Group's «Discussion Paper for Banks on Implications on Principles 16-21» of the UN Guiding Principles on Business and Human Rights (UNGPR), published in October 2013, Credit Suisse considers respecting human rights, including the right to adequate housing, as *«the right thing to do»* and an integral part of responsible business conduct (Thun Group paper, p. 3). In this regard, risk-based human rights due diligence as outlined in UNGPR 17-21 and the OECD Guidelines for Multinational Enterprises is key.

Accordingly, Credit Suisse operates an internal center of expertise which can assist in advising the different parts of the group in conducting risk-based human rights related due diligence.

As emphasized by the author of the UNGPR, Prof. John Ruggie, it is important to keep in mind, that there is no one-size-fits-all approach to due diligence. Human rights due diligence should be *commensurate with the human rights impacts and risks present*. In the current context this implies that CSAM and the Pension Fund have not just to consider the impact of the projects on the tenants' right to adequate housing, but also on the rights of the respective stakeholders of the Pension Fund and the REF Siat Fund, such as the rights to an adequate standard of living and social security. In addition, in a complex environment such as the housing situation in the cities of Zurich and Basel, the property owners are operating in a web of conflicting interests between tenants, stakeholders and legal building/construction regulations. Their leverage to mitigate adverse impact may thus be less than commonly believed.

Specifically with regard to institutional investors, the OECD report on «Responsible Business Conduct for Institutional Investors» on the application of the OECD Guidelines for Multinational Enterprises outlines the expectation towards enterprises to prioritize their due diligence efforts using a «risk-based approach», i.e. to prioritize due diligence based on the significance of risk and the severity of the impact. Prioritization is therefore crucial to identify general areas where the risk of adverse impact is most significant.

In the context of both the Pension Fund and CSAM, the focus of environmental and human rights due diligence is on investments in projects where the potential severity of an adverse impact is high in its scale, scope, and inability to be restored. As Switzerland has an established rule of law and a strong legal protection of tenants' rights, the primary focus of the due diligence in the context of these two projects is on compliance with all relevant legal aspects, in particular tenancy law and building law, complemented by environmental and human rights considerations.

During that process, a number of potential human rights impacts have been identified that could arise from the development of both projects, such as involuntary relocation, difficulties in finding accommodation in the city and loss of social network. In order to address and mitigate these issues for the affected people and vulnerable groups (such as elderly people) in particular, various measures that go beyond Swiss legal requirements have been initiated. The Pension Fund and CSAM will highlight these measures in their respective answer letters.

Based on the attached replies of the Pension Fund and CSAM we are of the opinion that both have exercised adequate due diligence in accordance with the UNGP. They have implemented comprehensive measures to mitigate adverse impacts on the affected parties. In our view, the criticism you have received on how these projects have been handled does therefore not appear to be justified.

If you consider it helpful, we would be most happy to arrange meetings with the Pension Fund and CSAM to address any remaining questions you may have. Please let us know at your earliest convenience.

Yours sincerely

Credit Suisse Group AG

A handwritten signature in black ink, appearing to read 'M. Rybach', with a stylized, flowing script.

Manuel Rybach
Head Public Affairs and Policy

A handwritten signature in black ink, appearing to read 'M. Ruffieux', with a stylized, flowing script.

Michel Ruffieux
General Counsel International Wealth Management

Ms. Leilani Farha
Special Rapporteur on adequate housing
Special Procedures Branch
OHCHR
Palais des Nations
1211 Geneva

Zurich, January 27, 2020

Your letter of November 25, 2019, regarding the right to adequate housing

Dear Ms. Farha

We refer to your letter dated November 25, 2019, to Mr. Tidjane Thiam, CEO of Credit Suisse Group, which has been forwarded to us for direct reply. Reference is also made to the cover letter from Credit Suisse Group AG which sets the organizational context and describes the respective owners general approach to human rights due diligence. The explanations provided in the cover letter will not be reiterated here unless required for the understanding of the context.

The «Schorenweg» property in Basel mentioned in your letter is owned by SIAT Immobilien AG, a real estate company that belongs to the publicly listed Real Estate Fund Siat («CS REF Siat»). The CS REF Siat is managed by Credit Suisse Asset Management (Switzerland) Ltd. («CSAM»). It invests primarily in multi-family dwellings in large and mid-sized urban centers, as well as their metropolitan areas. The fund has both institutional and private investors. At Credit Suisse alone, more than 2300 clients hold units in the CS REF Siat which represent about 38.5% of the fund's total market capitalization. The remaining 61.5% unitholders are clients of other banks. From the 38.5% held by Credit Suisse clients, more than 78% are held by institutional investors (pension funds, insurance companies, health insurance companies and fund of funds) (figures as per September 30, 2019).

General Remarks

The housing situation in the city of Basel differs from the situation in other larger Swiss cities, especially in the region of Zurich. The vacancy rate, i.e. the relative amount of vacant apartments, in Basel stands at 1%, which is ten times higher than in the city of Zurich. According to the Federal Office of Housing, a vacancy rate of 1% implies that there is no housing shortage, even if the limit of a functioning housing market of 1.5% has not yet been reached.

The Schorenweg buildings are situated in the Hirzbrunnenquartier, which is characterized by other high-rises and multi-family homes.

At the launch of the Schorenweg project, 50% of the tenants were below the age of 65, 10% between 65 and 75, and 15% over 75. However, we became aware that we lack statistical data

for tenants with older leases, some of which date back more than 30 years. In the interest of these tenants and for practical reasons, we included these 25% of tenants in the group of vulnerable residents of our buildings when conducting our due diligence.

Definition of the project scope

The two high-rise buildings on Schorenweg were built almost 60 years ago in 1961. Following a comprehensive technical review of the condition of the buildings the conclusion was reached that material structural measures, in addition to the renovation of the façade, were essential to comply with today's fire and earthquake safety requirements. The option to perform the renovation without vacating the buildings was seriously explored but, unfortunately, had to be rejected due to the deepness of the structural measures required which would have put the security and health of the tenants and the public in general at risk. Furthermore, the emissions would have created unacceptable burdens on tenants living in the buildings.

Apart from the clearly established need for substantive, comprehensive measures with a view to comply with current safety standards, more future oriented considerations played an important role in the design of the envisioned measures: with a view to increasing societal expectations regarding sustainability and in anticipating future regulation on building safety, the refurbishment of the façade and windows does not stop at complying with existing law but will comply with the «Minergie standard» (an official Swiss construction standard for new and refurbished buildings characterized by an elevated living comfort, very low energy consumption and the highest possible proportion of renewable energies).

Due Diligence

CSAM as investment manager of the CS REF Siat has considered all interests at stake in the Schorenweg project very carefully and took into account the social, economic and political reality in Switzerland and the region of Basel.

We support the UN Guiding Principles on Business and Human Rights (UNGP) and the related corporate responsibility to respect human rights. The UNGP outline the expectation towards enterprises to apply a «risk-based approach» in conducting their due diligence, i.e. to prioritize measures based on the significance of risk and the severity of the impact. This prioritization allows to identify general areas where the risk of adverse impact is most significant.

Switzerland having an established rule of law and a strong legal protection of tenants' rights, the primary focus of the due diligence in the context of the project Schorenweg was and is on compliance with all relevant legal aspects, in particular tenancy law and building law, complemented by additional environmental and human rights considerations that go beyond what is required by Swiss law.

Risk assessment

When conducting our due diligence process, we identified a number of potential negative human rights impacts for the tenants. These include, among others, involuntary relocation, difficulties in finding new accommodation in the same city and the loss of social network. We identified elderly tenants as a particularly vulnerable group. In order to address and mitigate these issues for the affected people and vulnerable groups in particular, various measures that go beyond Swiss legal requirements were initiated after concluding that vacating the property was unavoidable (as mentioned above):

Early Information

Tenants and key stakeholders were informed about the project at an early stage. The termination of the rental agreements was given with a notice period of 12 months (for building 1) and 24 months (for building 2) and therefore well in advance of the statutory notice period of three months. The aim of this early communication was to give all tenants sufficient time to find alternative suitable options.

Support to tenants

All tenants were offered comprehensive support in the search for new housing and many made use of this offer.

This support consisted, amongst other things, in assisting in the application process for other apartments, in issuing – upon request – reference letters, in making recommendations to other property managers and landlords.

Furthermore, tenants wanting to move out before the final date of the rental agreement were allowed to do so with just a notice period of 30 days (instead of 3 months) to the end of any month; this gave them larger flexibility when finding a new apartment and allowed them to reduce costs that could otherwise have resulted.

Tenants were also proactively given a one-off payment to compensate for the inconveniences while moving out (for 1.5-room apartments: CHF 400; 2.5-room apartments: CHF 500; 3.5-room apartments: CHF 750; 4.5-room apartments: CHF 1,000).

Two additional measures were taken for tenants over the age of 65: (i) establishment and funding of an independent advisory service specializing in age issues with regular office hours and (ii) connecting our tenants with «Älter Basel» (www.aelterbasel.ch), a recognized public-private partnership supporting the needs of elderly people in the region of Basel, to support elderly tenants in the search for a new apartment.

Applications of current or former tenants for moving back into one of the apartments once the renovation work is completed will be reviewed with priority. The target rents will be aligned with local rents in the surrounding residential areas.

The effectiveness of these support measures is proven by the fact that to date 107 out of 196 tenants were able to find alternative housing and have already moved out of the Schorenweg buildings. 76 of these tenants have found an alternative apartment in the city of Basel, 8 of them found a new dwelling in neighboring communities. 35 of the aforementioned 107 tenants could accept an offer for an apartment in our existing real estate portfolio in the city of Basel.

Our support measures remain in place for all tenants who did not yet find new housing.

Legal proceedings

Switzerland has a well-developed rule of law that protects the rights of tenants and homeowners, and gives them access to fair legal proceedings in case of disputes. A range of tenants have made use of these options. Based on all ongoing and taken measures minimizing and mitigating adverse impact and the level of our diligence, we are confident that the courts will support our position. Of course, our main goal remains to find an acceptable settlement for all parties.

Conclusion

As outlined above, we consider that CSAM has exercised an adequate level of due diligence in «Schorenweg» renovation project which is in accordance with the UNGP. Comprehensive measures to effectively mitigate and reduce human rights risks for the affected parties have been implemented and we will continue our efforts to support tenants in finding adequate solutions.

Yours sincerely

Credit Suisse Asset Management (Switzerland) Ltd.



Raymond Rüttimann
Managing Director
Head Real Estate Switzerland



Silvio Preisig
Managing Director
Head Real Estate Asset Management

Ms. Leilani Farha
Special Rapporteur on adequate housing
Special Procedures Branch
OHCHR
Palais des Nations
1211 Geneva

January 27, 2020

**Your letter of November 25, 2019,
regarding the right to adequate housing**

Dear Ms. Farha

We refer to your letter dated November 25, 2019, to Mr. Philip Hess, Chairman of the Board of Trustees of the Pension Fund of Credit Suisse Group (Switzerland). Reference is also made to the cover letter from Credit Suisse Group AG which sets the organizational context and explains the general concept of due diligence applied by the respective owners. Unless required for the understanding of the context, we therefore do not reiterate information already provided in the cover letter.

The owner of the «Brunaupark» property is the Pension Fund of Credit Suisse Group (Switzerland) (the «Pension Fund»), an autonomous occupational pension scheme organization providing employee benefits insurance. According to Swiss Federal Law, employee benefits insurance in Switzerland is jointly financed and managed by employees and employers and provides benefits in the case of retirement, disability, or death to supplement the benefits paid by public law pension institutions (Federal Old Age and Survivors' Insurance (AHV)/Federal Disability Insurance (IV)). In other words, employee benefits insurance comprises all collective measures that allow older people, surviving dependents, and persons with a disability to maintain their accustomed standard of living at an adequate level should an insured event occur ("(retirement, disability, or death of an income-earning family member). These measures apply in combination with benefits paid by the state-run social insurance schemes (AHV/IV).

The Pension Fund therefore makes an important contribution to ensuring that its members enjoy an adequate standard of living in the case of retirement or disability. These pensions are a key factor in safeguarding the right to social security and an adequate standard of living pursuant to Articles 22 and 25 of the Universal Declaration of Human Rights, as well as Art. 11 of the UN Covenant on Economic, Social, and Cultural Rights.

As of September 2019, over 11,000 pension recipients were affiliated with the Pension Fund. Similarly, the Pension Fund also has an obligation to the more than 17,500 Credit Suisse employees who are affiliated with it and who rely on the assets that the Pension Fund invests. All members and their dependents rely on the Pension Fund to invest its assets prudently and diligently to guarantee adequate pension levels in the long term.

The Brunaupark project

The information contained in your letter does not always fully correspond to the facts. We would therefore like to provide you with an overview of our Brunaupark construction project and explain why it is in line with the social, economic, and political reality in Switzerland, and the regions of Zurich, as well as with our corporate responsibility to respect human rights according to the UN Guiding Principles on Business and Human Rights (UNGPR).

The Brunaupark development is located in Zurich, the biggest city in Switzerland. From 1970 to 1999, societal trends caused the population in the city to decline continuously from 422,640 to just 333,486 inhabitants. Since the turn of the millennium, the city's population has been growing again; by the end of 2018 there were already 413,912 people living in the city. A very high standard of living and a strong labor market provide opportunities for economic and social integration to the migrant population in particular; the proportion of foreign residents in the city of Zurich was 32.2% at the end of 2018.

The downside of this trend is that housing in Zurich is becoming increasingly scarce. As a result, many families and individuals that rely on affordable housing are looking for vacant apartments. According to official statistics (s. www.statistik.zh.ch), the vacancy rate in the city of Zurich last year was just 0.13%, corresponding to 306 of the 225,943 apartments available. On the other hand, the rising incomes of households in the city of Zurich in recent decades have also led to a growing consumption of living space. The consumption of living space per person in the city of Zurich has risen from 30 m² to 41m² since 1970. Over the last ten years, an average of just over 2,000 apartments have been constructed in Zurich every year. This is however not enough to keep up with demand. Because many people are forced to commute from outside the city to their place of work downtown, the regional transportation system is being pushed to its limits.

The planned Brunaupark modernization would double the housing stock on the site from 240 to approximately 500 residential units, which can be seen as a considerable contribution to alleviating the housing situation in the city for the above reasons. The higher construction density will also result in less urban sprawl and commuter traffic.

Climate change is a further motivational factor for modernizing a property. The Brunaupark project has sustainable construction at its core. All the buildings will comply with the latest ecological standards, and the heating and cooling systems for the entire site will follow a new concept. A large proportion of renewable energy sources will replace the existing fossil fuel systems: For example, geothermal heating is to be used in the future. Recycled materials will be used for part of the construction. This helps to reduce "grey energy" consumption. The planned mobility concept has also been designed with sustainability in mind, for example, there are plans for car-sharing, charging stations for electric vehicles and e-bikes, and approximately 1,400 spaces for bikes.

When conducting our due diligence process we have identified a number of potential human rights impacts that could arise from the development of the Brunaupark project, such as involuntary relocation, difficulties in finding accommodation in the city, loss of social network, etc. In order to address and mitigate these issues for the affected people and vulnerable groups (such as elderly people) in particular, various measures that go beyond Swiss legal requirements have been initiated.

Communication to tenants

We ensured that information about the project was communicated at an early stage and that key stakeholders were contacted. As you yourself noted in your report, we informed tenants about the termination of the rental agreement well in advance of the statutory notice period of three months. The termination notices were sent out at least 15 months before the termination date, and in most cases even before. Furthermore, as will be mentioned further below, all tenants were offered comprehensive support in the search for new housing, which various tenants also took advantage of.

Support in finding new apartments

We established the «Brunaupark hotline» which tenants can reach whenever they have any questions or need support as of the date when they received the notice.

After two information events held in April and May 2019, we additionally set up a special advisory service for tenants over 65. This service is free of charge and is managed by a specialized independent consultant who provides information and support in individual appointments on all questions concerning the search for suitable solutions.

We offered all tenants our support in the application process for other apartments. Whenever requested, we issue positive letters of reference for tenants and recommendations to other property managers and landlords. In addition, we allow tenants to move out before the final date of the rental agreement with full flexibility, i.e. a notice period of only 30 days to the end of any month applies; this means that tenants do not have to pay two lots of rent if they find a new apartment from an earlier date, as it would ordinarily be the case under Swiss law.

Priority for current and former tenants in the reconstructed buildings

Of course, all current or former tenants have the option to apply for one of the apartments once the reconstructions have been completed. The target rents in our project correspond with local rents in the surrounding residential areas. Applications of former tenants for the new apartments will be reviewed with priority. We estimate that the new rents should be affordable for most of the existing tenants.

Other considerations

In October 2019, the Zurich city government published a report at the request of the Zurich city parliament (the «Sozialbericht Überlandpark»). The report investigated the socio-economic changes and migration from the city in connection with replacement construction projects throughout Zurich. This allowed conclusions to be drawn about how different demographic segments react in this situation. According to the report, around two-thirds of those affected continue to live in the city of Zurich, with one-third of them even finding an apartment in the same district. Only one in three tenants leaves the city after vacating his or her apartment due to a replacement construction project. The report highlights that, in particular, information from the landlord at an early stage and support for tenants – in other words, precisely those measures that we have taken for the Brunaupark project– serve to increase the retention rate. In the case of the one-third of tenants who leave the city following such an event, the report's authors assume that the move out of town is also influenced by other, personal reasons, as 10% of the population move out of the city every year anyway. With regard to persons at the lower end of the income scale, the report notes that there is no evidence of a general displacement effect. In general, such persons also succeed in finding another apartment in the city.

Conclusion

For the reasons outlined, we disagree with the conclusions reflected in your letter that the affected tenants are being forced into social hardship or even homelessness as a result of having to relocate.

Switzerland has a well-developed rule of law that protects the rights of tenants and homeowners, and gives them access to fair legal proceedings in case of disputes. A range of tenants have made use of these options; however, we are unable to provide any further details as the appeals process is still in progress. Based on our current knowledge about preliminary decisions already issued, we are confident that the courts will protect our decisions and handling of the project. It goes without saying that we will accept and implement all final court decisions.

Our comments above show that the Pension Fund has exercised its due diligence in the Brunaupark construction project in accordance with the UN Guiding Principles on Business and Human Rights, and has implemented comprehensive measures to mitigate the human rights risks for the affected parties. In our view, the criticism you have received on how we have handled this project is therefore not justified.

Yours sincerely

Pension Fund of Credit Suisse Group (Switzerland)



Martin Wagner
Chief Executive Officer



Guido Bächli
Chief Investment Officer