

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(FIRST SESSION)

NCCA/TJ/PL/2022(48)

23rd December, 2022

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant Standing Order 221, I beg to lay the following Paper on the Table of this Assembly, today Friday 23rd December 2022.

- THE 2ND REPORT OF THE SECTORAL COMMITTEE ON CULTURE AND COMMUNITY SERVICES REGARDING PETITION BY THE PUBS, ENTERTAINMENT AND RESTAURANT ASSOCIATION OF KENYA ON THE PUBLIC NOTICE OF REVOCATION OF LICENSES FOR BARS AND NIGHT CLUBS DATED 25TH NOVEMBER 2022 BY THE GOVERNOR, NAIROBI CITY COUNTY.

(The Chairperson, Sectoral Committee on Culture and Community Services)

*Papers laid by the chairperson
on 23rd Dec 2022
23/12/2022*

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press





NAIROBI CITY COUNTY



NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY – FIRST SESSION

2ND REPORT OF COUNTY ASSEMBLY SECTORAL COMMITTEE ON CULTURE AND
COMMUNITY SERVICES REGARDING A PETITION BY THE PUBS,
ENTERTAINMENT & RESTAURANTS ASSOCIATION OF KENYA ON THE PUBLIC NOTICE
ON REVOCATION OF LICENSES FOR BARS AND NIGHT CLUBS DATED 25TH NOVEMBER
2022 BY THE GOVERNOR, NAIROBI CITY COUNTY

Clerk's Chambers

Nairobi City County Assembly

City Hall Buildings

Nairobi

DECEMBER, 2022



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Report of the Special Committee on Finance and Community Services



1.0 PREFACE

1.1 Establishment and mandate of the Committee

The Sectoral Committee on Culture and Community Services is established under Standing Order No. 203. Its mandate pursuant to Standing Order 191(5) (a) is:-

- a) *to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *to study the programme and policy objectives of the departments and the effectiveness of the implementation;*
- c) *to study and review all legislation referred to it;*
- d) *to study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) *to investigate and inquire into all matters relating to the assigned Departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) *to make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

1.2 Hon. Speaker, Sir, the Committee exercises its oversight role on all matters related to;

- Cultural activities
- Public entertainment
- Public amenities
- Betting, Casinos and other forms of gambling
- Racing
- Liquor licensing
- Cinemas
- Video shows and hiring
- Libraries
- Museums
- County parks
- Recreation facilities
- Firefighting Services and disaster management
- Control of drugs and pornography
- Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

1.2 Committee Membership

The Committee comprises the following Members:-

1. **Hon. Clarence Munga, MCA - Chairperson**



2. **Hon. Samson Jera, MCA – Vice Chairperson**

3. Hon. Hannah Wanjiru, MCA
4. Hon. Antony Maragu, MCA
5. Hon. Alvin Palapala, MCA
6. Hon. Jane Musangi, MCA
7. Hon. Redson Onyango, MCA
8. Hon. Joyce Lugonzo, MCA
9. Hon. Anthony Kimemia, MCA
10. Hon. Jared Akama, MCA
11. Hon. Moses Kitema, MCA
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14. Hon. Mwaura Samora, MCA
15. Hon. Virginia Kangethe, MCA
16. Hon. Joy Muthoni, MCA
17. Hon. Jane Waruguru, MCA
18. Hon. Aaron Kangara, MCA
19. Hon. Sam Kago, MCA
20. Hon. Peter Wahinya, MCA
21. Hon. Rachel Maina, MCA
22. Hon. Davidson DNG Ngibuini, MCA
23. Hon. Eric Kiogora, MCA

1.3 Background

Hon. Speaker Sir,

Pursuant to Standing Order No. 214, members of the Pubs Entertainment and Restaurants Association of Kenya, Nairobi branch petitioned the County Assembly on 8th December, 2022 regarding a public notice on revocation of licenses for bars and night clubs. Pursuant to Standing Order 221, the petition was committed to the Sectoral Committee on Culture and Community Services to inquire into the issues raised and report to the Assembly.

In the petition the petitioners made the following prayers to the County Assembly:-

That,

- i. The Public Notice issued by the County Government on 25th November 2022 be lifted;
- ii. Enforcement of the Public Notice by the county government of Nairobi and the Inspector General of the National Police Service be suspended;
- iii. The Petitioners and the County Government hold a joint discussion to develop guidelines on how to curb noise pollution by pubs and restaurants including but not limited to sound proofing;
- iv. The revoked licenses by the County Government as a result of the Public Notice dated 25th November 2022 be lifted; and



- v. The Nairobi City County Alcoholic Drinks Control & Licensing Act, 2014 be amended.

Hon. Speaker Sir,

The Committee resolved to meet all parties mentioned in the petition before making appropriate recommendations. The Committee identified the following as parties to the petition;

- a.) Members of the Pubs Entertainment and Restaurants Association of Kenya(Nairobi branch) as the Petitioners; and
- b.) The County Department of Trade, Tourism and Cooperatives, specifically the Liquor Licensing Sub-Sector.

The petitioners honored the Committee's invitation and gave their oral submissions. This report contains the Committee's findings and recommendations on the Petition.

1.4 Acknowledgement

Mr. Speaker Sir,

I wish to sincerely thank Members of the Committee for their patience, sacrifice and hard work despite their other commitments and tight schedules, in their endeavors to deliberate on the petition. The Committee also wishes to sincerely thank the Offices of the Speaker, the Clerk of the County Assembly and the secretariat for their support to the committee that enabled members execute their work.

It is my honor and pleasure on behalf of the Committee to present this report of the Committee on Culture and Community Services on the Petition by Members of the Pubs Entertainment and Restaurants Association of Kenya, Nairobi branch a public notice on revocation of licenses for bars and night clubs with recommendations to the Assembly for consideration and adoption.

Thank You.

SIGNED 

Hon. Clarence Munga, MCA
(CHAIRPERSON)

DATE..... 23/12/2022

Report of the Secretary of the Committee on Culture and Community Services



COMMITTEE MEMBERS

Signature

1. Hon. Clarence Munga, MCA - Chairperson
2. Hon. Samson Jera, MCA – Vice Chairperson
3. Hon. Hannah Wanjiru, MCA
4. Hon. Antony Maragu, MCA
5. Hon. Alvin Palapala, MCA
6. Hon. Jane Musangi, MCA
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20. Hon. Peter Wahinya, MCA
21. Hon. Rachel Maina, MCA
22. Hon. Davidson DNG Ngibuini, MCA
23. Hon. Eric Kiogora, MCA



2.0 INTRODUCTION

- 2.01. Pursuant to Standing Order No. 214, members of the Pubs Entertainment and Restaurants Association of Kenya, Nairobi branch petitioned the County Assembly on **8th December, 2022** regarding a public notice on revocation of licenses for bars and night clubs. Pursuant to Standing Order 221, the petition was committed to the Sectoral Committee on Culture and Community Services to inquire into the issues raised and report to the Assembly.
- 2.02. The Petitioners, in their prayers requested the County Assembly to consider the following :-
That,
- i. The Public Notice issued by the County Government on 25th November 2022 be lifted;
 - ii. Enforcement of the Public Notice by the county government of Nairobi and the Inspector General of the National Police Service be suspended;
 - iii. The Petitioners and the County Government hold a joint discussion to develop guidelines on how to curb noise pollution by pubs and restaurants including but not limited to sound proofing;
 - iv. The revoked licenses by the County Government as a result of the Public Notice dated 25th November 2022 be lifted; and
 - v. The Nairobi City County Alcoholic Control & Licensing Act, 2014 be amended.
- 2.03. During the inquiry, the Committee met the Petitioners who gave their oral submissions.

2.1 COMMITTEE FINDINGS

3.01 Meeting with Petitioners

The Committee met the petitioners on Friday 9th December, 2022. During the meeting, Mr. Michael Muthami, Chairperson Pubs Entertainment and Restaurants Association of Kenya (Nairobi branch) submitted to the Committee an assessment document on the impact on ban of night club licenses in Nairobi.

He informed the Committee that Nairobi City County has an estimated 12,000 licensed bars and these bars employ over 60,000 employees who jointly generate income worth Kshs. 21.6 Billion annually.

He further informed the Committee that out of the 12,000 licensed bars, 400 of them are licensed to operate at night. These Night clubs also have employees who generate income annually.

He informed the Committee that bar/restaurant operators were required to pay to the County Government, Kshs. 130,000 per license to operate at night. Therefore, annually night clubs generate Kshs. 52 Million in liquor license fees paid to the County Government. This



was exclusive of other County Government licenses such as food handling, health, fire, single business permit and branding.

The Chairperson of the Association reported to the Committee that the County Government did not place any prior notice to ban operation of night clubs and restaurants. In his presentation, he informed the Committee that a majority of the business owners were in shock and were already making losses in their businesses.

The petitioners reminded the Committee that during the covid-19 period between 2020 and 2021 most of the bars and restaurants were greatly affected by the various Government measures to contain the spread of covid-19. The aspect of social distancing necessitated many bars and restaurants modifying their premises to operate in open air to accommodate patrons as per the guidelines set out by Ministry of Health.

Further, the Committee was reminded that due to the strict measures by the Government on drinking and driving. Most of the roads had alcohol blow officers to ensure that revelers don't drive while intoxicated. This had a ripple effect on most night clubs located in the City Center, therefore bringing about the rise of bars and restaurants located within residential areas.

The Petitioners further informed the Committee that the bar owners and operators had held two (2) meetings with the Nairobi City County Executive to deliberate on the issue raised regarding noise pollution. They mentioned that, during their deliberations they had proposed to have another meeting with Nairobi home owners association to deliberate on a way forward regarding operations of bars and restaurants within residential areas.

The petitioners highlighted that in their meetings with the County Executive they inquired on the meaning of residential and commercial areas within the County, however they were never informed on the same. Further, in the Nairobi City County Alcoholic Drinks and Control Act, 2014 the meanings were left out.

The Chairman Pubs, Entertainment, Restaurants Association of Kenya, mentioned that some of the premises were affected by the Executive Order and yet they operate without making noise but close up very late. He further mentioned that the ban on night clubs would greatly affect owners of bars and restaurants as well as a have negative value chain impact on small local suppliers.

The petitioners informed the Committee that they would cooperate with County Government to ensure that the issue on noise pollution and parking be addressed amicably.

The petitioners proposed the following as the way forward;

- i. That the County Department of Urban planning and Housing provide clear interpretation with respect to residential and commercial areas;



- ii. That a consultative meeting be held between Nairobi City County Government, Nairobi Home Owners Association and Pub, Entertainment, Restaurants Association of Kenya to formulate a framework on operation of bars and restaurants within residential areas;
- iii. That the Nairobi City County Assembly amend the Nairobi City County Alcoholic Drinks and Licensing Act, 2014 to ensure that it addresses most of the challenges being faced by Bars and restaurants;
- iv. That the Nairobi City County Executive come up with draft regulations for the proposed amendments to the Nairobi City County Alcoholic Drinks and Licensing Act, 2014 to ensure full implementation of the Act;
- v. That within a period of 6 to 12 months a majority of the premises be sound proof to reduce noise pollution;
- vi. That night clubs will install noise decibels gadgets that indicate and regulate volume when it's too high;
- vii. That night clubs and restaurants located within residential areas install sound proof glass to mitigate noise pollution;
- viii. That bars and restaurants to allocate parking for their patrons to avoid on street parking;
- ix. That if a premise is already parked with revelers, non-admission of more people will be enforced; and
- x. That all bars and restaurants sign a code of ethics with Pubs, Entertainment, Restaurants Association of Kenya to ensure that there is enforcement of order and sanity in their premises.

3.02 Submissions from the Liquor Licensing Sub-Sector

The liquor licensing sub sector gave their submissions in regards to the prayers as contained in the petition;

- i. **The Public notice issued by the County Government on 25th November be lifted;**

That it is important to appreciate that the public notice was issued as a result of numerous complaints from the public regarding bars, restaurants, night clubs and liquor selling premises within Nairobi County. The issues raised were about noise pollution, general nuisance, parking obstruction amongst others.

The public notice was issued to ensure the rule of law is adhered to, and as such must be in place until all premises comply.

- ii. **Enforcement of the Public notice by the County notice by the County government of Nairobi and the Inspector General of National police service be lifted;**

That the Government has a responsibility to ensure law and order is adhered to in accordance with the guiding laws.



They have observed that since the notice was issued, a number of operations have been carried out to ensure compliance. It is important to note that the levels of noise from premises has generally gone down and they have received positive feedback from members of the public.

They are of the opinion that enforcement of the notice must be sustained to ensure all premises are compliant.

- iii. **The petitioners and the County Government to hold joint discussions to develop guidelines on how to curb noise pollution by pubs and restaurants including but not limited to sound proofing;**

That they had several consultative meetings with stakeholders including the petitioners before the notice was issued. It was resolved that the bar owners would address the issues raised by residents in regards to noise pollution general nuisance, parking obstructions. However, this was not forthcoming leading to the issuance of the notice. The County Executive are ready and committed to hold further consultative meetings with stakeholders to attain amicable solutions to the issues.

- iv. **The revoked licenses by the County Government as a result of public notice dated 25th November 2022 be lifted;**

That the owners of the revoked licenses have an opportunity to address the issues raised by residents and once complied, the licenses will be reinstated.

- v. **The Nairobi City County Alcoholic Control and Licensing Act, 2014 be amended;**

That the Nairobi City County Alcoholic Control and Licensing Act, 2014 has a lot of gray area which require amendments to conform with the current dynamics.

3.0 RECOMMENDATIONS

In view of the forgoing, the Committee resolved to adopt the following recommendations that;

- a) The public notice issued by the County Government on 25th November 2022 on the closure of night clubs be lifted since the order was not clear and it is affecting all the night clubs even those that are in compliant.
- b) The revoked licenses as a result of the order dated 25th November 2022 be reviewed for night clubs that are compliant.
- c) Enforcement officers from the County Government and the national police to immediately cease to enforce of the order pending its clarification.
- d) The Petitioners, resident's associations and the County Government to hold a joint discussion within a month and come up with a framework on operation of night clubs and restaurants within residential areas.
- e) That the Petitioners to have a period of 6 to 12 months to ensure that all the night clubs and restaurants within residential areas are sound proof.



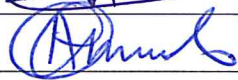





- f) The County Executive department of urban planning to come up with a clear definition of a residential area and commercial area.
- g) The Petitioners to come up with clear ways and guidelines on how to control disorderly patrons and solve the issue of parking within a period of one month.
- h) That the Nairobi City County Assembly to commence the process of amending the Nairobi City County Alcoholic Drinks and Licensing Act, 2014.

Report of the Secretary and Community

ADOPTION OF THE 2ND REPORT OF THE SECTORAL COMMITTEE ON CULTURE AND COMMUNITY SERVICES ON PETITION BY THE PUBS, ENTERTAINMENT & RESTAURANTS ASSOCIATION OF KENYA ON THE PUBLIC NOTICE ON REVOCATION OF LICENSES FOR BARS AND NIGHT CLUBS DATED 25TH NOVEMBER 2022 BY THE GOVERNOR, NAIROBI CITY COUNTY

The following members appended their signatures to signify their agreement with the report:-

No.	Name	Signature
1.	Hon. Clarence Munga, MCA - Chairperson	
2.	Hon. Samson Jera, MCA - Vice Chairperson	S.O.J.O
3.	Hon. Hannah Wanjiru, MCA	hannah.
4.	Hon. Antony Maragu, MCA	
5.	Hon. Alvin Palapala, MCA	
6.	Hon. Jane Musangi, MCA	
7.	Hon. Redson Onyango, MCA	R.O.O
8.	Hon. Joyce Lugonzo, MCA	JL
9.	Hon. Anthony Kimemia, MCA	AK
10.	Hon. Jared Akama, MCA	
11.	Hon. Moses Kitema, MCA	
12.	Hon. Wanjiru Kariuki, MCA	M.K
13.	Hon. Cyrus Mugo, MCA	
14.	Hon. Mwaura Samora, MCA	
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