

by Chair Planning & Housing  
Wills F.C.A.  
27/02/2019.

**NAIROBI CITY COUNTY**



**NAIROBI CITY COUNTY ASSEMBLY  
SECOND ASSEMBLY – THIRD SESSION**

**REPORT OF THE SECTORAL  
COMMITTEE ON PLANNING AND HOUSING**

**ON**

***THE CONSIDERATION OF THE SESSIONAL PAPER NO. 1 OF 2018 ON THE  
URBAN HOUSING RENEWAL AND REGENERATION POLICY.***

**Clerks Chambers  
Nairobi City County Assembly  
City Hall Buildings  
Nairobi**

**FEB 2019**

## Contents

1.0 PREFACE .....	3
2.0 INTRODUCTION .....	7
3.0 ANALYSIS OF THE URBAN HOUSING RENEWAL AND REGENERATION SESSIONAL PAPER...8	
4.0 CONSIDERATION OF MEMORANDA .....	20
5.0 HEARINGS OF DEVELOPERS .....	21
6.0 COMMITTEE FINDINGS .....	25
7.0 COMMITTEE OBSERVATIONS .....	30
8.0 RECOMMENDATIONS.....	32

## 1.0 PREFACE

Mr. Speaker,

The Sectoral Committee on Planning and Housing is established under Standing Order 203, and its mandate amongst others, as outlined under Standing Order 203 (6) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all County legislation referred to it;*
- d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) 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) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments): and*
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

### Committee Membership

The Committee comprises the following Members:-

1. Hon. Anthony Karanja, MCA- Chairperson
2. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
3. Hon. Abdi Ibrahim Hassan, MCA
4. Hon. Elias Otieno Okumu, MCA
5. Hon. Paul Kados, MCA
6. Hon. Alvin Olando Palapala, MCA
7. Hon. Geoffrey Ng'ang'a, MCA
8. Hon. Daniel Ngengi, MCA
9. Hon. Waithera Chege, MCA
10. Hon. Joseph Wambugu, MCA

11. Hon. Ruth Ndumi, MCA
12. Hon. Naftali Owuor Ogola, MCA
13. Hon. Carolyne Mayunzu, MCA
14. Hon. John Kyalo Mulyungi, MCA
15. Hon. Redson Otieno Onyango, MCA
16. Hon. Geoffrey Majiwa, MCA
17. Hon. Patricia Musyimi, MCA
18. Hon. Leah Supuko, MCA
19. Hon. Mark Ndung'u, MCA

The Committee exercises oversight role on the work and administration of the following sub sectors;-

- (i) Lands;
- (ii) Urban Planning; and
- (iii) Urban Renewal and Housing.

In accordance with the third Schedule of the Standing Orders, the Committee is mandated to consider all matters relating to: - *“County Planning and Development, including statistics, land survey and mapping, boundaries and fencing ,housing and outdoor advertisement”*

Mr. Speaker,

The Sessional Paper No.1 of 2018 on the Urban Housing Renewal and Regeneration Policy was tabled in the County Assembly on Friday 21<sup>st</sup> December 2018 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012. The Sessional paper was thereafter committed to the Sectoral Committee on Planning and Housing for consideration and report to the Assembly.

Mr. Speaker,

During the period 7<sup>th</sup> to 11<sup>th</sup> January, 2019, the Committee together with the sector held a workshop where Members were briefed on the content and objectives of the Policy. It's worth noting that the County Executive and the Committee have since met severally to discuss the contents of this crucial policy document.

Mr. Speaker,

Nairobi City County is not only the capital City of Kenya, but also an important commercial and industrial hub for East and Central African region. However since the pre-

colonial era to date, the city has faced perennial challenges in terms of poor infrastructure and lack of proper planning in terms of meeting the housing need for the city's growing population. The formulation of the Urban Housing Renewal and Regeneration Policy is seen as a right step towards fulfilling, respecting, observing, promoting and protecting the right to housing. The Policy gives effect to Article 43 (1) (b) of the Constitution, which is the legal and constitutional framework on the right to housing in Kenya.

**Mr. Speaker,**

Housing is one of the Government's big four agenda's and is therefore envisaged that for its success, the efficacious renewal and regeneration of Nairobi City County's decayed estates ought to be the starting point.

This definitely requires the development of a coherent policy framework that provides guidance to all actors regarding the specific tasks that need to be accomplished to ensure that the redevelopment projects are seamlessly and sustainably realised now and in the future.

It is based on this premise that the Urban Housing Renewal and Regeneration Policy was prepared by the County Government and forwarded to the County Assembly for approval. In line with the provisions of Article 196 of the Constitution, the Committee conducted a public participation exercise on the 29<sup>th</sup> of January 2019 to gather the views of the public and the affected communities within the city.

The submissions forwarded during this forum necessitated the Committee to hold meetings with the developers/contractors involved in the Urban Renewal project during the period between 11<sup>th</sup> to 14<sup>th</sup> February, 2019. Details and findings of the discussions are contained in this report.

**Mr. Speaker,**

Upon scrutiny of the Sessional Paper, the Committee is cognizant to the fact that the formulation of this document was inspired by three interrelated dimensions. First, many of Nairobi's old residential constructed during the colonial period, have since become dilapidated and unconnected or insufficiently connected to basic social amenities and services. Secondly, the old estates are conceived, planned and constructed without (sufficient) regard to future demographic trends and the imperative of sustainable urban

land use. Lastly, the extant policy frameworks failed to attract private investment in low cost housing.

**Mr. Speaker,**

The above problems, tied with the ever-increasing demands on the public purse, left most Nairobi residents without access to decent and affordable housing.

In view of the foregoing, and the natural inelasticity of land, there is an urgent need for renewal and regeneration of the old estates. This policy document, therefore, seeks to provide a coherent long-term policy framework for the sustainable resolution of the myriad social, habitational, structural, physical planning and land use problems facing the old estates. It will be the key guideline document to be used in the Urban Housing Renewal and Regeneration projects.

**Mr. Speaker,**

The Committee finds the Policy a bold step towards fixing the housing challenges that have confronted the city and restore the city to its lost glory. The Committee finds that it is in the interest of Nairobi City County that the Urban Housing Renewal and Regeneration Sessional Paper be approved by the County Assembly so that its implementation can commence forthwith and guide the implementation of the Urban Renewal projects in line with the realization of one of the government's big four agenda i.e the realisation of the right to decent, adequate and affordable housing.

**Mr. Speaker,**

I am grateful to the Members of the Committee who committed their time to scrutinize the Sessional Paper. Special thanks to the Office of the Speaker, Office of the Clerk and the Committee secretariat for their support. The Committee also extends its appreciation to the County Executive for working together with stakeholders and acknowledges their efforts in developing the Policy.

On behalf of the Committee, I now have the honor and pleasure to present this Report on the consideration of the Sessional Paper No.1 of 2018 on Urban Housing Renewal and Regeneration for consideration and adoption.

Thank You.

SIGNED ..... DATE 27/02/2019

Hon. Anthony Kiragu Karanja, MCA

## 2.0 INTRODUCTION

Mr. Speaker,

- 2.01. The Sessional Paper No.1 of 2018 on Urban Housing Renewal and Regeneration Sessional Paper was tabled in the County Assembly Friday 21<sup>st</sup> December 2018 for approval in accordance with Section 8(1) (e) of the County Governments Act, 2012.
- 2.02. The Sessional paper was thereafter committed to the Sectoral Committee on Planning and Housing for consideration and report to the Assembly. The Committee met various stakeholders on several occasions to scrutinize the policy. It is important to note that Urban Housing Renewal and Regeneration is among the Sectors' flagship projects and that there have been previous engagements on the same between the **Committee**, the **County Executive Committee Member** and the **Chief Officer responsible for Urban Renewal and Housing**.
- 2.03. The Policy acknowledges the significance of Nairobi city as the capital city of Kenya and the regional economic and industrial hub in East Africa. It also recognizes the current challenges bedeviling the County such as increased rate of population growth, arising mainly from rural-urban migration and lack of maintenance and poor management of old County estates.
- 2.04. The policy aims at developing guidelines for the implementation of sustainable resolutions of the myriad social, habitational, structural, physical planning and land use problems facing the old estates in Nairobi County.
- 2.05. Pursuant to Article 196 of the Constitution of Kenya, the Committee was able to conduct a public participation exercise on the 29<sup>th</sup> of January 2019 at Charter Hall. Various views from the public and stakeholders were gathered and taken into consideration.
- 2.06. The Committee also engaged the services of an expert to scrutinize contracts which had been entered into by the County in the previous regime. The findings of the expert are enlisted in this report.

### 3.0 ANALYSIS OF THE URBAN HOUSING RENEWAL AND REGENERATION SESSIONAL PAPER.

Mr. Speaker sir,

The Committee having scrutinized the policy established the following:-

1. The specific objectives of this Policy document are to:
  - i. Promote sustainable urban land use in the old estates;
  - ii. Encourage private investment in the provision of decent and affordable housing in the city;
  - iii. Increase housing stock in the old estates, by shifting from low-rise to high-rise building designs;
  - iv. Rehabilitate or refurbish dilapidated housing units in the old estates;
  - v. Encourage the preservation of sites and structures of significant historical or cultural value;
  - vi. Provide appropriate housing and infrastructure for disadvantaged groups or groups with special needs, such as the elderly and persons living with disabilities;
  - vii. Establish mechanisms for guaranteeing the long-term structural integrity of buildings within the old estates;
  - viii. Increase the variety in sizes and types of housing units;
  - ix. Secure reasonable access to health facilities and services within the old estates;
  - x. Secure reasonable access to water, sewerage and sanitation services within the old estates;
  - xi. Secure reasonable access to basic education facilities and services within the old estates;
  - xii. Secure reasonable access to recreational facilities within the old estates;
  - xiii. Ensure the availability of adequate public transport facilities and services within the old estates;
  - xiv. Secure the provision of adequate garbage collection and solid waste management services within the old estates;
  - xv. Improve the physical environment and enhance the aesthetic appeal of the old estates;
  - xvi. Improve the living conditions of persons residing in the old estates;

- xvii. Improve the personal security and safety of the residents of the old estates; and
- xviii. Diversify the land use of the old estates by adopting a mixed-use development approach to renewal.

2. Generally, renewal of projects will be achieved through rehabilitation or redevelopment of old city estates. A rehabilitative approach to urban renewal is aimed at preserving, repairing, and restoring the existing estates whereas redevelopment approaches to renewal refer to demolishing the existing physical structures, and replacing them with new buildings.

3. The rehabilitative approaches to renewal will be relevant for estates comprising housing units that are generally structurally sound but have deteriorated due to neglect in maintenance whereas redevelopment approaches to renewal will involve demolishing the existing physical structures, and replacing them with new buildings. Redevelopment will be employed in those estates where land-use is sub-optimal and/or housing units are severely dilapidated.

4. All programs for renewal and regeneration of the old estates shall seek to optimize land use in the estates, guarantee universal access to basic amenities, and improve the aesthetic appeal of the housing units and structures.

5. There are priority factors that the County government will consider in determining whether to renew any one or more of the old estates. These amongst others include:-

- (a) the living conditions of residents;
- (b) state of decay or dilapidation of housing units and support infrastructure;
- (c) population density;
- (d) deprivation or scarcity of water, sanitation and other social amenities and services;
- (e) predisposition to epidemics, fire, flooding and other forms of catastrophe;
- (f) realizable improvement in land use efficiency;
- (g) budgetary constraints; and
- (h) Availability of non-budgetary financing options.

6. The County government shall prioritize the following in all projects involving renewal and regeneration of the old estates:

- (a) Energy efficiency, with emphasis on clean and renewable energy;
- (b) Community participation in planning;
- (c) Ecologically friendly technologies;
- (d) Mass public transport systems;
- (e) Sustainable water resources management;
- (f) Sustainable waste management, including recycling;
- (g) Reduction of environmental pollution and degradation;
- (h) Buildings and building designs that;—
  - i. Are adaptable to future changes in use, technology and planning legislation;
  - ii. Use, safe, durable and flexible construction materials;
  - iii. Use locally available materials and skills;
  - iv. Are energy and water efficient;
  - v. Maximize penetration of day-light;
  - vi. Use green infrastructure such as eco roofs, green walls etc.; and
  - vii. Observe the existing housing and environmental laws.

7. During the demolition and construction phases of the renewal projects, the County government and the relevant contractors shall make every attempt to implement the best waste management practices including:
  - (a) Minimizing waste materials including packaging items delivered to the renewal sites;
  - (b) Adoption of reclamation led approaches to demolition, guided by re-use and recycling of demolition materials; and
  - (c) Local sourcing of construction materials.
8. During the demolition and construction phases of the renewal projects, the County government and the relevant contractors shall make every attempt to implement the best waste management practices including:
  - (a) Minimizing waste materials including packaging items delivered to the renewal sites;
  - (b) Adoption of reclamation led approaches to demolition, guided by re-use and recycling of demolition materials; and

(c) Local sourcing of construction materials.

9. High and mid-rise apartment complexes will be constructed in place of the decayed bungalows existing in the old estates. The apartment complexes will be constructed pursuant to the prevailing storey heights prescribed within each zone.
10. The policy recognizes that most of the old estates are not adequately provided with infrastructure such as safe water, sanitation, drainage, solid waste disposal services, and transportation infrastructure and therefore provides that the Renewal/Regeneration development takes into cognizance the provision of basic infrastructure and services.
11. To ensure that there is adequate provision of infrastructure and services in the old estates, the County government shall:
  - i. Promote an integrated approach that brings together infrastructure and service providers at the planning stage of redevelopment project;
  - ii. Promote energy saving technology and encourage the use of alternative/renewable energy sources in the redeveloped estates;
  - iii. Provide initial basic services and infrastructure in pre-developed and developed areas;
  - iv. Adopt appropriate standards for infrastructure and services in the redeveloped estates;
  - v. Improve the existing infrastructure services in the old estates by amongst others:-
    - a. Expanding the road networks;
    - b. Investing in efficient mass transport systems; and
    - c. Upgrading water and sewer lines.
12. The open spaces in old estates will act as venues for social events, gatherings and relaxation areas for residents. The County will also ensure that this open spaces are provided for in the projects and it will reject any approvals for projects that will result in loss of open spaces.
13. The policy spells out that the renewal projects shall be designed in such a way that maximizes water collection, conservation, storage, treatment, recycling and re-use. To achieve this, the designs of the redeveloped estates shall amongst others:-
  - i. Reduce water consumption through installation of efficient outlets and fixtures;

ii. Match water quality to end use; and

iii. Maximize the collection of rain-water and surface run-offs.

—In addition the water drainages shall regularly be cleaned and maintained by the County to avoid clogging, and together with National Environment Authority, the existing riparian laws to protect fragile wetlands and ecosystems in the city shall continue to be enforced.

14. The County government shall ensure that redeveloped housing units are energy efficient. For instance buildings shall be designed to harness solar power for street lighting, water heating and other domestic uses.

15. The Policy commits the County government to provide for efficient mass transport systems and efficient fixed-schedule-fixed-route public road transport systems to reduce the use of private cars. These strategies will reduce energy consumption, pollution and traffic congestion associated with private motor vehicles.

16. Based on certain national values and principles of governance, which transcend all aspects of public decision making in Kenya, including the making of public policies, chapter four of the Policy seeks to outline principles of renewal of urban residential estates. Concisely, it outlines the following principles amongst others to be observed in the policy:-

**i. Accountability**

The renewal of the old estates must be responsive to the needs of residents of Nairobi County and citizens of Kenya. The County government shall be open, transparent and accountable to the public in its affairs regarding the renewal of the old estates.

**ii. Public Participation**

Public participation is an important national value and principle of governance, pronounced in the Constitution. It seeks to place citizens at the center of public decision making and reverse the country's past legacy of a top-down approach to governance. The County shall establish and facilitate effective public participation and community engagement in renewal programs relating to the old estates. This way, the residents of the estate will part and parcel of the process of the renewal of the old estates.

### iii. Designing for the residents in mind

Urban residences house and serve people. Owing to this fact, then making them people friendly is very essential. The County Government shall therefore bind itself in ensuring that the design thinking of the old estates focusses on the needs and convenience of residents of the estates and communal sustainability.

### iv. Optimal Land Use

It would be pointless to renew an estate only to re-create its existing problems. Intensifying land use is one way of optimizing the land usage of the old estates. However, intensity should not only mean density. Rather, it should include viability, vibrancy, complexity, quality and diversity.

The optimal use of land envisioned under this policy is one that is not only appropriate for its place, but also able to respond to changing needs of residents in the long term.

To address the issues of population growth, land scarcity and optimal land use, the County government shall:-

- a) Establish land banks to make it easy for people to access affordable serviced land for affordable housing development;
- b) Establish land banks and make land available for redevelopment and resettlement; and
- c) Procure land for land banks through purchase and donations.

### v. Affordability

Affordable housing is that which is reasonably adequate in standard and location for lower or middle-income households and does not cost so much that a household is unlikely to meet other basic needs on a sustainable basis. It is the business of the County government therefore to ensure that the redeveloped housing units are affordable i.e. are reasonably priced for that segment of Nairobi's population with the median household income or below.

#### **iv. Mixed-Use Development**

For the success of the renewal projects there should be a vibrant, diverse mix of land use anchored within the target residential estates. This calls for the County government to adopt a land use mix that includes a significant number of affordable apartments units, and a corresponding amount of retail and office development. The quantum of the retail and commercial spaces will be assessed and ascertained on a case by case basis based on the unique requirements of the target residential estates.

#### **vi. Mixed Income Estates**

The Policy states that there is need to provide quality public housing while avoiding the creation of mono-tenure segregated estates. Single-class segregated estates can negatively impact both the economy and social fabric. When low-income households concentrate in one area, money available to support local economic activities and commercial services is likely to be scarce whereas if unemployed and low-income households concentrate in one area, the wider social networks necessary to access employment and other economic opportunities are reduced.

#### **vii. Clarity of Objectives**

After understanding the development rationale and agreeing on the design standards, the stakeholders involved in the renewal project shall develop clear, measurable objectives of the proposed renewal projects. The best objectives shall anticipate possible physical, economic and social outcomes in the delivery of the project.

#### **viii. Sustainability**

Each estate renewal project should bring ecological betterment to the estate and its neighbourhood. The County government should therefore adopt sustainability initiatives that go beyond mere building of houses and encourage environment-friendly communities by prioritizing mixed-use developments and rapid mass public transport systems.

**ix. Social Impact Assessment**

The County government shall before implementing a renewal project, undertake a social impact assessment of the proposed renewal and the accommodation needs of the residents to be affected by the renewal. Specifically, this will entail:-

- a) assessing the housing needs of the residents of the old estates;
- b) as far as practicable, adopting a combined approach of renovating existing housing units that are structurally sound and demolishing dilapidated units to make way for new units; and
- c) Encouraging and providing incentives to homeowners to renovate and expand existing housing units.

In addition to the above, the County government shall ensure the provision of the following features for social sustainability:

- a) public facilities such as schools and sports facilities;
- b) security features such as perimeter walls and street lighting;
- c) open public spaces e.g. parks and sitting spaces;
- d) convenience and safety for pedestrians and users of public transport; and
- e) Access to provisions for children, the disabled and the elderly.

**x. Social and Economic Renewal**

Under this principle, apart from physical redevelopment, the renewal programs shall strive to offer social and economic regeneration to the old estates. The overall aim of economic and social renewal will be to improve the living conditions of residents of the estates. The specific aims will be to amongst others:-

- a) Correct management or maintenance deficits;
- b) Change the residents' experience of living in the old estates;
- c) Create attractive and safe environments for the residents;
- d) Create employment in construction and management positions;
- e) Provide work spaces in the old estates; and
- f) Support small businesses in the old estates.

17. Chapter 5 of the Policy elaborates on the implementation strategy of the renewal and regeneration projects. It mentions the following key aspects in ensuring the implementation and success of the project;-

**i. Scoping**

This refers to the process during which decision makers conduct a strategic assessment to identify and promote renewal for the target residential estate.

**ii. Planning**

The policy states that a comprehensive plan will be developed to direct the renewal projects. The plan shall have three main components, namely: framework plan, master plan and institutional arrangements.

**iii. Financing**

The County Government shall explore creative ways of financing the urban renewal projects.

Partnerships with the private sector shall be necessary not only to share the costs of the urban renewal but also risks and technical capacities. The County shall therefore implement a combination of internal and external funding sources, policy and regulatory tools, and strategic partnerships with the private sector, to finance the renewal projects envisioned under this policy.

**iv. Equity Contribution of Land**

Under this arrangement, the County will acquire land for renewal projects and use it as equity contribution towards joint ventures with private developers. The County will then invest the value of the land and private sector partners will invest the cash for construction.

**v. Public-private partnerships**

The County shall enter into public-private partnerships (PPP's) to ensure renewal of estates. Under this framework, the County shall earmark the old estates eligible for renewal; procure the land to be redeveloped; be actively involved in planning for the renewal projects; and direct the renewal projects. To protect the public interest in the PPP renewal projects, the County shall exercise public control of the renewal projects.

18. Chapter six of the policy speaks on other issues surrounding the urban renewal process. The key highlights under this section are:-

**i. Public participation**

Just as Section 113 of the County government act 2012 provides for public participation in matters of the County, the policy has provided for that by allowing the community (i.e. residents of Nairobi County) to express its needs and aspirations, which will be fed into the policy-making, delivery, and monitoring process. Secondly, public participation will allow for greater efficiencies throughout the project delivery process.

**ii. Decanting**

Renewal projects may make it impossible for residents to continue occupying their houses during the project. In this scenario the residents might be relocated to other locations to pave way for construction. The act of relocating them is known as decanting. The policy provides a framework for establishing a decanting site which shall operate as a temporary holding ground for the relocated residents as the estate undergoes redevelopment.

**iii. House Allocation**

The policy indicates that the County shall, as far as practical, ensure that all residents relocated from the old estates for redevelopment become beneficiaries of the redeveloped housing units. It may also require such relocated residents to formally apply for the new houses by a certain date.

Further, the County shall establish a steering committee to oversee the various aspects of the allocation and re-settlement of the relocated residents. Specifically, the steering committee shall vet, allocate and resolve grievances emanating from the allocation of the redeveloped housing units.

**iv. Land Acquisition**

The County shall acquire the land and housing units affected through private treaty with the owners thereof. Should it become impossible to do this, the County shall procure the acquisition of the land and affected houses through eminent domain in accordance with the procedure outlined in the Constitution and the Land Acquisition Act. The County shall also

encourage landowners to give up land in exchange for equity in PPP projects.

**v. Land Use in Renewed Estates**

The document states that under the renewal and regeneration projects, it shall ensure that estates conform to prevailing zoning and building regulations. This is mainly address the problem we have had in the old estates of many illegal extensions and structures.

**vi. Maintenance and Management of Redeveloped Housing Units**

In view of the difficulties witnessed in the management of the old County estates, the policy gives the County the mandate to develop and implement guidelines on management and maintenance of the city's estates that will come up. Amongst others, such guidelines will include a requirement that all housing units be re-inspected every 10 years and issuance of renewable certificates of occupancy be done for compliant housing units only.

19. Chapter 7 of the policy provides for dispute resolution. These are disputes arising from renewal programs and Public Private Partnership arrangements.
20. Chapter 8 of the Policy is related to Enforcement and Implementation. It gives way for the County, relevant stake agencies and development partners to establish an implementation framework for this policy. To make it enforceable, the policy will form the basis for and be recognized as the overarching guide to all urban renewal or related redevelopment activities regarding the old estates.
21. Chapter 9 gives the synergy between the prevailing laws, policies and frameworks at both national and County Government levels in view of guaranteeing the provision of decent, adequate and affordable housing in the city. Such kind of laws applicable to the policy are amongst others;-
  - i. The Constitution of Kenya;
  - ii. The Housing Act;
  - iii. The County Governments Act and the Urban Areas and Cities Act;
  - iv. The Physical Planning Act;
  - v. The Public Health Act;

- vi. The Building Code;
- vii. The National Housing Policy (Sessional Paper No. 3 of 2016);
- viii. The National Land Use Policy;
- ix. The Kenya Vision 2030; and
- x. Nairobi Metro 2030.

- To mention a few, the Constitution guarantees every citizen certain minimum standards of housing and social amenities. Article 43 (1) (b) of the Constitution, for instance, provides that every person has the right to accessible and adequate housing, reasonable standards of sanitation; and clean and safe water in adequate quantities.
- Due to dilapidation and overcrowding, among other factors, the old estates fall far below the standards of housing and social amenities envisioned by the Constitution. The formulation of this policy is part of the County government's efforts to discharge its constitutional mandate of providing decent and affordable housing, and related social amenities, to the city's residents.
- The policy is also alive to the fact that the Housing Act provides for the giving of loans and grants, of public funds, for the construction of residential buildings. It tasks the National Housing Corporation with the mandate of implementing the national government's housing programs and policies.
- It further informs that under section 5 of the Urban Areas and Cities Act, the County may enter into an agreement with the national government regarding funding the renewal projects envisioned under this policy.

22. Chapter 10 summarizes the policy. It states that the County government shall continually to explore and implement creative, effective and sustainable programs to ensure that the housing and social amenities in the old estates meet the minimum safety and human habitation standards envisioned by the Constitution, relevant international conventions and relevant National and County policy and regulatory frameworks.

The County shall through various mechanisms ensure the continuous renewal and regeneration of the old estates and that the interests of the County are protected.

#### 4.0 CONSIDERATION OF MEMORANDA

In accordance with the Article 196 of the Constitution, Section 115 and Section 87 of the County Government Act, 2012, the County Assembly called for an open public participation forum on **Tuesday, 29th January, 2019** at Charter Hall – City Hall to gather views from the public and stakeholders on the policy document. It further requested that submission of written memoranda be forwarded to the Office of the Clerk by Tuesday 29<sup>th</sup> January, 2019.

The Committee received written memoranda from the following stakeholders amongst others;-

- i. The Alliance of Nairobi City County Resident's Associations;
- ii. Pumwani Residence Forum Committee;
- iii. Housing Coalition;
- iv. Kaloleni estates Residents Association;
- v. Umoja old Ngara Estate Welfare Association;
- vi. Muthurwa Residents Welfare Association & Muthurwa Housing Cooperative Society;  
and
- vii. The Shauri Moyo Ex-Pangani Residents Society.

The issues raised in the memoranda, the advertisement for public participation and list of participants are hereby **annexed**. The annexures provide the Committees feedback on consideration of the memoranda.

## 5.0 HEARINGS OF DEVELOPERS

The Committee had meetings with six developers who had signed contracts on the Urban Renewal projects during the previous regime. The meetings were conducted in the Assembly Committee rooms from 11<sup>th</sup> to 14<sup>th</sup> February, 2019. The contents of the deliberations of the meetings are hereby listed:-

### 5.01 Directline Assurance Limited

#### *Submissions*

- This is a company that apart from primarily engaging in insurance business, it also invests in property development.
- In their contract they come in as part of a consortium.
- They have been awarded a contract to develop 585 houses and 3000 market stalls at Suna road. The houses and stalls once finished would be sold out.
- Their contract states that the County shall add a markup of 20% on the price that the developer will quote for the finished houses and stalls. That 20 % increase is what the County will make out of the project.
- They haven't signed a Joint Venture Agreement yet.
- They are willing to align their contract to conform to the Policy document.

*NB//The Committee noted that the contract was signed in the absence of a policy and that most clauses contained in their contract did not represent the interests of this policy document.*

### 5.02 Stanlib Kenya Limited

- They represent a consortium and that they were contracted to come up with 1, 2, and 3 bedroomed houses at Uhuru (Green Garden).
- The Stanlib team indicated that they would be doing 1890 units and that the proposed land was 7.5 acres.
- They had not settled on the ownership percentage with the County, but generally the county was to get a 20% mark up on the selling price and that about 400 houses were going to the County.

- They were not aware of the policy that was in place when the contracts were entered into.
- Another concern from the developer was that despite them being ready to break ground, access to the site remained a challenge.
- Members were concerned that the projects appeared to have been awarded to a consortium a fact which was not known to the committee. The response was that the bidding document allowed for formation of a consortium.

#### 5.03 Technofin Kenya Limited

- They have been awarded the contract for Pangani Estate.
- They were contracted to redevelop 1434 units and that currently they have 48 tenants.
- They stated that according to their contract the County Government was to transfer land to them but the county is reluctant on the same.
- Decanting of the sites would be considered differently depending on the size of the land; it would be impossible to have decanting on a 3 acre land thus necessitating relocation of existing tenants by the developer.
- Members noted that contract did not contain clauses requiring the use of locally sourced skills and materials as provided for under chapter 3 clause 18(h) of the policy. The developers were in agreement that such a clause ought to be included in the contract.
- Suggestions were made that a minimum of 60% materials and 90% skills be locally sourced.
- The developers indicated that their contract allots 40% of units to be sold at market rate leaving 60% as low cost housing. This was after realizing that the 30% /70% rate as provided for in the policy is unrealistic and could therefore not provide affordable houses.

#### 5.04 Jabavu Village limited

- Jabavu is a subsidiary of the Hass Petroleum with over 10 years' experience in real estate.

- They are to do 1546 units, 60% social housing (low income) and 40% affordable.
- They were awarded the contract in 2015 and are still in negotiations up to date thus pleading that the policy formulation be expedited.
- The Committee brought to their attention that certain clauses of their contract may differ with the provisions of the ensuing policy thus warranting some amendments to the contracts.
- The land will be transferred by the county to an SPV and thereafter a 20%/80% split of the housing to the county and the developer respectively as per the joint venture agreement.
- The CEC submitted that apart from Pangani they had issues with contracts of all the developers who had signed contracts in the previous regime.
- The developer's advocate submitted that they had they had no issue renegotiating the contracts to conform to the impending policy. It was therefore agreed that renegotiations would be done once the policy is unveiled.

#### 5.05 Green Prestik limited

- Prestick is a consortium of two companies.
- They were contracted for the Old Ngara project.
- Clause 5 of the Joint venture Agreement provides for compensation of existing tenants while the policy provides for the provision of a decanting site.
- Under clause 10 of the JVA, the developer is permitted to increase purchase price of the redeveloped units while chapter 4 of the policy calls for affordable housing for medium and below income earners.
- They indicated that a proposed road redesign will have a roundabout encroaching on their site thus they sought the indulgence of the County. They are unable to determine the number of units they are to develop unless the issue of the road redesign is addressed.

- KCA reduced their awarded 68 meters to 42 meters which means reduction of the magnitude of the project. The developers sought the indulgence of the County.
- They also stated that they did not have a title to their property.
- In response to the question on the policy used, the project advisor tabled a document drafted referring to a proposal aligned to the Kibaki Vision 2030 elements. The committee disputed the document citing that it was never taken through the process of developing a policy. The CEC never adopted it and neither was it brought before the assembly for approval.
- The committee established that the document tabled by the project advisor was not what was used to draw the contracts and that the process needed to be redone and the contracts renegotiated.
- The project advisor indicated that he was guided by the National Housing Policy but agreed that the contract was not effective until several factors were considered including approval by the county assembly and thus were ready to renegotiate and align the contracts to the policy.
- Prestick is willing to renegotiate the contract to be aligned to the policy document.
- The developers indicated that they have 73 old tenants in Ngara and that they were to be compensated Ksh 30,000 per month by the developer for the period they will be relocated.

#### 5.06 Green Erdeman Property limited

- They are contracted for the development of Ngong Road Phase 1 & 2.
- The total housing units to be done by the developers are 4068 and the county government shall take 848 units while in phase II the County government is to take 20% of the units.
- The chair brought to the notice of the developers that the Joint Venture Agreements signed were done without reference to a county

policy and that there is need to review those agreements once the policy is passed.

- Their contract for Phase I was signed on 17th August 2017 and phase II was signed on 16th August 2018.
- The Managing Director Erdemann indicated that negotiations to amend the Joint Venture Agreements will necessitate the advocates from both sides to reconsider them. The CEC assured them that once the policy is developed, all the prior contracts will have to be aligned to the policy.
- A Special Purpose Vehicle (SPV) known as Nairobi Ngong Road Estate Ltd was created and is fully owned by the County government.
- A board established by the County Government to safeguard the project's interests consists of 1 director from the Nairobi County Government and 2 from Erdemann property Limited.
- Phase I land value is Ksh 4 billion (12.5 acre) and the construction value is Ksh 25 billion. Phase II land value is also Ksh 4bn and project value is Ksh 23 billion.
- The mother title is to remain under the County Government but sub-leases will be created on the mother titles.
- Their buildings will consist of 34 floors and about 98 meters high.

## 6.0 COMMITTEE FINDINGS

The following are the findings that the Committee made from the analysis of the agreements the County had entered into and during the public participation meetings held between the Committee and various developers and stakeholders during the period 11<sup>th</sup> to 14<sup>th</sup> February, 2019:-

1. The County Government had entered into joint venture agreements with various developers with a view of kick starting the Urban Renewal and Regeneration projects in the absence of a policy. The signed contracts were for the development of Pangani estate, Jeevenjee / Bachelor Quarters estate, Old Ngara estate, New

Ngara estate, Ngong Road (Phase1), Ngong Road (Phase2), Suna Road (Green Field), Uhuru (Green Field).

2. Even though the then County Government had floated a unique Expression of Interest, all the contracts entered into by the County and the different developers had been customized as per each developer.
3. Based on the above finding, the Committee engaged an expert to peruse the signed agreements (full analysis annexed) and amongst others, the following issues were noted;-

**i. Pangani Estate**

- A Joint Venture Agreement for this project had been entered into by the County and three other companies. Their contract requires the County to give no less than 7 days' notice to the Development partner, before accessing the redevelopment Site while the policy requires the County to exercise and maintain public control of the redevelopment projects.
- The Supplemental Joint Venture Agreement allots 40% of the redeveloped units to the development Partner (to be sold at market rates) while leaving 60% of the redeveloped units as low-cost housing where as the Policy provides that no more than 30% of the redeveloped units shall be allotted to the development Partner for sale at market prices. Put differently, the policy requires at least 70% of the redeveloped units to be affordable, low cost housing (c.f. Chapter 5, Paragraph 25 of the Policy).

**ii. Old Ngara Estate**

- For Old Ngara, the joint venture agreement had been entered into by the County and two other companies. The Joint Venture Agreement talks of compensation for the displaced tenants instead of establishment of a decanting site as provided for in the Policy.
- The agreement holds the County solely and exclusively responsible for the relocation of the existing tenants. This clause is burdensome on the

County since the development partner bears the responsibility of paying compensation to existing tenants.

- The agreement permits the development partner to increase the Bid and Purchase Price of the redeveloped housing units. This clause should be subject to Chapter 4 of the Policy, which requires the redeveloped housing units to be affordable.
- The agreement gives the development partner the right to alienate, or otherwise transfer the sublease from the County without the County's approval. The policy objective requires the County to maintain and exercise public control over the redevelopment projects.
- The agreement requires the County to keep the contents of the Joint Venture Agreement or any arrangements entered into pursuant thereto, confidential. This is contrary to the cardinal principles of public participation and the right to access of information as embodied in the Constitution and the Policy.
- The Sublease Agreement subleases the land for the redevelopment project directly to the development partner. To protect the interests of the County and the interests of the residents of Nairobi City County, the sub-lease of the land meant for the redevelopment projects should be to a Special Purpose Vehicle controlled by both the County and the Development Partner.

iii. Ngong Road (Phase 1)

- This agreement requires the County to transfer land to a Special Purpose Vehicle (SPV). The clause does not clarify whether the transfer to the SPV shall be by way of a sub-lease, however in a meeting with the developer, he clarified that subleases will be created from the mother title which is in the name of the County.
- The agreement permits the development partner to adjust the prices of the redeveloped units. The price adjustment should be undertaken with the objective of meeting the policy principle of providing

housing units affordable to residents of the County earning a median income or below.

- The agreement requires the County to keep the contents of the Joint Venture Agreement or any arrangements entered into pursuant thereto, confidential. This is contrary to the cardinal principles of public participation and the right to access of information as embodied in the Constitution and the Policy.
- The agreement seems to divide the redeveloped housing units between the County and the development partner at the ratio of 18:82%. The clause, in allotting 82% of the housing units to the development partner, is contrary to the Policy which caps the percentage to be allotted to a development partner at 30%.
- The Joint Venture Agreement does not contain clauses requiring the use of locally sourced skills and construction materials as provided for by the Policy.

**iv. Ngong Road (Phase 2)**

- The Joint Venture Agreement does not adopt to the entire array of the dispute resolution mechanisms and principles embodied in Chapter 7 of the Policy.
- The Joint Venture Agreement does not contain clauses requiring the use of locally sourced skills and construction materials as provided for by the Policy.
- The developer has not obtained clearance from Kenya Civil Aviation Authority to carry on with his project of 34 floors or 98 meters high.

**v. Uhuru estate**

- The agreement provides that the joint venture shall be un-incorporated. Even though un-incorporated joint ventures are a common type of joint ventures, it would be prudent, given the nature of the envisioned redevelopment projects, to incorporate the joint venture.

- An incorporated joint venture will provide better asset protection to the County than an un-incorporated joint venture.
- The Joint Venture Agreement does not contain clauses requiring the use of locally sourced skills and construction materials as provided for by the Policy.

## 7.0 COMMITTEE OBSERVATIONS

Mr. Speaker sir,

The Committee in its process of considering the Policy observed as follows:-

1. That the Policy was developed by the County government as a response to various perennial challenges facing Nairobi City County such as traffic congestion, poor infrastructure and dilapidated environment amongst others.
2. That even though the city's population and size has grown in leaps and bounds since the city's establishment, such growth has not been checked with adequate planning. The unregulated growth has led to a lot of challenges within the city, key among them being housing.
3. The Housing Situation in Nairobi has continued to worsen. Like most cities in developing countries, the housing situation in Nairobi City is characterized by an acute shortage of affordable housing. The demand for affordable housing far outstrips the supply. As at 2018, only 35,000 new homes were constructed against an annual demand of 120,000 homes. The shortage of affordable housing units has manifested itself in overcrowding and sprawl of informal settlements.
4. The problems facing the old estates are largely a natural consequence of the colonial legacy and the extant policy and regulatory frameworks that have been in place. In view of the foregoing, and the natural inelasticity of land, there is an urgent need for renewal and regeneration of the old estates.
5. That the Policy was developed through a comprehensive stakeholder participation and therefore most concerns of the stakeholders are addressed.
6. That the Policy seeks to address the challenges affecting the city in a multifaceted approach. Key interventions include making adequate provision for amongst others the following in each of the old estates:-
  - i. long-term structural integrity of buildings;
  - ii. adequate housing stock, through high-rise building designs;
  - iii. variety in sizes and types of housing units;
  - iv. reasonable access to health facilities and services;
  - v. reasonable access to water, sewerage and sanitation services;
  - vi. reasonable access to basic education facilities and services;

- vii. reasonable access to recreational facilities;
- viii. adequate public transport facilities and services; and
- ix. Adequate garbage collection and solid waste management services.

7. Should the Nairobi City County Assembly adopt such a policy, Nairobi will not only be the first County to engage on this issue on a purposeful policy level, but will also provide the first Urban Housing Renewal and Regeneration Policy framework in the Country at both national and County Levels. Nairobi will set the stage for benchmarking across the country and the region as a whole.
8. That if the aforementioned initiatives are implemented as envisioned in the Policy, challenges affecting the city shall effectively be addressed. However, this shall require Commitment by all the stakeholders. The County Assembly should play the watchdog role over the projects while the County Executive must adhere to, and implement the plan by committing to the policy and seeking support from other development partners.
9. That during the Committee meetings with the contracted developers, except for the developer for Ngong road phase 1 & 2, the developers for Pangani estate, Jeevenjee / Bachelor Quarters estate, Old Ngara estate, New Ngara estate, ,Suna Road (Green Field) and Uhuru (Green Field) were willing to align their contracts to this Policy once it is passed.

## 8.0 RECOMMENDATIONS

Mr. Speaker sir,

The Committee recommends that in accordance with Section 8(1) (e) of the County Governments Act, 2012 and provisions of Standing Order 191(6):-

This Assembly approves the Sessional Paper No. 1 of 2018 on the Urban Housing Renewal and Regeneration Policy with the following recommendations:-

1. That present and future projects of the Urban Housing Renewal and Regeneration program be done within the framework of the Urban Housing Renewal and Regeneration Policy and the recommendations of this report.
2. That the County Executive ensures that all the Joint Venture Agreements/Contracts that were entered into without the presence of a policy are aligned to the provisions of the Sessional Paper No.1 of 2018 on Urban Housing Renewal and Regeneration Policy.
3. That there should be mechanisms to ensure that finished houses are allocated to the targeted persons i.e. people with an income of Ksh 150,000 and below.
4. That the County manage their own projects and not allow them to be absorbed under the National program.
5. That the houses sold under the Urban Renewal and Regeneration scheme cannot be sold before lapse of 5 years from the time of purchase/acquiring.
6. That the County government submits to the Assembly within 60 days of adopting this report, a Bill establishing a Housing Authority which shall be responsible for overseeing the projects and managing the estates under the Urban Renewal and regeneration scheme.
7. That the policy document be amended to:-
  - (a) Give the County Housing sector powers to allocate houses to County staff who qualify to own the houses;
  - (b) Encourage that local labour, skills and materials be locally sourced where possible;
  - (c) Give current residents priority when it comes to allocation of developed houses;
  - (d) Give developers a maximum of 3years to finish their project from date of award;

- (e) Provide for decanting as a first priority before considering compensation to residents being moved to pave way for development;
- (f) Indicate that the County Government may consider local leaders as part of the Steering Committee that shall oversee allocation of houses; and
- (g) That the County maintains control over the common areas within estates i.e residents should not establish structures/extensions within their compounds.

**END**



MINUTE 01 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY  
COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON  
MONDAY 11<sup>TH</sup> FEBRUARY 2019 AT 11.00 AM AT THE COMMITTEE ROOM 05  
CITY HALL BUILDING

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Ruth Ndumi, MCA
3. Hon. Geoffrey Ng'ang'a, MCA
4. Hon. Leah Supuko, MCA
5. Hon. Carolyne Mayunzu, MCA
6. Hon. Joseph Wambugu, MCA
7. Hon. John Kyalo Mulyungi, MCA
8. Hon. Redson Otieno Onyango, MCA
9. Hon. Patricia Musyimi, MCA
10. Hon. Daniel Ngengi, MCA
11. Hon. Geophrey Majiwa, MCA
12. Hon. Alvin Olando Palapala, MCA
13. Hon. Abdi Ibrahim Hassan, MCA
14. Hon. Elias Otieno Okumu, MCA
15. Hon. Waithira Chege, MCA
16. Hon. Naftali Owuor Ogola, MCA

ABSENT

1. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
2. Hon. Mark Ndung'u, MCA
3. Hon. Paul Kados, MCA

IN ATTENDANCE

1. Directline Assurance Ltd-Developer for Suna Road(Urban Renewal Project)

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Investment Officer, Directline Assurance Ltd on The Urban Renewal and Regeneration project.
3. A.O.B
4. Adjournment



MIN 001/P&H-SESSPN0.1/FEB 2019 – PRELIMINARIES

- Quorum was realised at 11:38 am. The chair opened with a word of prayer.
- The agenda was read by the chair. It was proposed by Hon. Ruth Ndumi and seconded by Hon. Leah Supuko thereby adopted.
- A round of introductions ensued and opening remarks were made by the chair.
- The chair inquired from the developer their preparedness to embark on the much awaited project. The developer assured the committee that everything would be in place once the county processed titling documents.

MIN 002/P&H-SESSPN0.1/FEB 2019 –SUBMISSIONS REGARDING THE CONTRACT

- The developer stated that they had been awarded Suna road and that they are to develop housing and a market, precisely, 585 units and 3000 market stalls.
- He indicated that the initial Expression of Interest (E.O.I) never provided for sharing of units. However, compensation to the county would be 2.2 billion shillings which is 20% to mean that the county will charge whatever the developer quotes plus 20%.
- The committee informed the developer that the contracts entered into concerning redevelopment were based on a non-existent housing policy since the only county's housing policy is still in the final stages of its development by the County Assembly. It was noted that most of the clauses in his contract did not represent the interests of the impending policy.
- The developer indicated that they are willing to renegotiate on the contract to conform to the policy once it becomes operational.
- The committee sought to know whether Directline had done a project of a similar nature. The response was that they are part of a consortium which does property development alongside their core insurance business.
- The Committee would soon come up with resolutions.

MIN 003/P&H-SESSPN0.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 12.56 pm.

The next meeting was scheduled for 2.00 pm on Monday 11<sup>th</sup> February, 2019 at the Assembly Committee room 5.

Confirmed as true record of proceedings

CHAIRPERSON.....A. K. I. C......DATE 26/02/2019  
SECRETARY.....A. K. I. C......DATE 26/02/2019



MINUTE 02 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY  
COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON  
MONDAY 11<sup>TH</sup> FEBRUARY 2019 AT 2.00 PM AT THE COMMITTEE ROOM 05 CITY  
HALL BUILDING

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Ruth Ndumi, MCA
3. Hon. Paul Kados, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Geoffrey Ng'ang'a, MCA
6. Hon. Leah Supuko, MCA
7. Hon. Geophrey Majiwa, MCA
8. Hon. Alvin Olando Palapala, MCA
9. Hon. Abdi Ibrahim Hassan, MCA
10. Hon. Elias Otieno Okumu, MCA
11. Hon. Redson Otieno Onyango, MCA
12. Hon. Naftali Owuor Ogola, MCA

ABSENT

1. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
2. Hon. Daniel Ngengi, MCA
3. Hon. Joseph Wambugu, MCA
4. Hon. John Kyalo Mulyungi, MCA
5. Hon. Patricia Musyimi, MCA
6. Hon. Mark Ndung'u, MCA
7. Hon. Waithira Chege, MCA

IN ATTENDANCE

1. Mr. Albert Ekirapa-Developer for Uhuru-Green garden(Urban Renewal Project)

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Project Manager-Stanlib Kenya Ltd. on The Urban Renewal and Regeneration project.
3. A.O.B
4. Adjournment



MIN 004/P&H-SESSPNo.1/FEB 2019 – PRELIMINARIES

- Quorum was realised at 2.00pm. The chair opened with a word of prayer.
- The agenda was read by the chair. It was proposed by Hon. Caroline Mayunzu and seconded by Hon. John Kyalo thereby adopted.
- A round of introductions ensued and opening remarks were made by the chair.
- The Chair mentioned the objectives of the meeting citing that the committee had realised that most Urban Renewal contracts contravened provisions of the proposed County Housing Policy and was exploring the option of proposing renegotiation of the contracts.

MIN 005/P&H-SESSPNo.1/FEB 2019 –SUBMISSIONS REGARDING THE CONTRACT

- The developer stated that they represent a consortium and that they were contracted to come up with 1, 2, and 3 bedroomed houses at Uhuru (Green Garden).
- Members were concerned that the projects appeared to have been awarded to a consortium a fact which was not known to the committee. The response was that the bidding document allowed for formation of a consortium.
- The developer informed the Committee that they would be doing 1890 units and that the proposed land is 7.5 acres.
- The developer indicated that they had not settled on the ownership percentage with the county but the county was to get a 20% mark up on the selling price and about 400 houses were going to the County.
- The developer stated that they were not aware of the policy that was in place when the contracts were entered into.
- Another concern from the developer was that despite them being ready to break ground, access to the site remained a challenge.

MIN 006/P&H-SESSPNo.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 3.14 pm.

The next meeting was scheduled for 11.00 am on Tuesday 12<sup>th</sup> February, 2019 at the Assembly Committee room 5.

Confirmed as true record of proceedings

CHAIRPERSON.....AKK..... DATE 29/02/2019  
SECRETARY.....ALH..... DATE 26/02/2019



MINUTE 03 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY  
COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON  
TUESDAY 12<sup>TH</sup> FEBRUARY 2019 AT 11.00 AM AT THE COMMITTEE ROOM 05 CITY  
HALL BUILDINGS

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Ruth Ndumi, MCA
3. Hon. Paul Kados, MCA
4. Hon. Geoffrey Ng'ang'a, MCA
5. Hon. Leah Supuko, MCA
6. Hon. Geophrey Majiwa, MCA
7. Hon. Alvin Olando Palapala, MCA
8. Hon. Abdi Ibrahim Hassan, MCA
9. Hon. Elias Otieno Okumu, MCA
10. Hon. Daniel Ngengi, MCA
11. Hon. Naftali Owuor Ogola, MCA

ABSENT

1. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
2. Hon. Carolyne Mayunzu, MCA
3. Hon. Redson Otieno Onyango, MCA
4. Hon. Joseph Wambugu, MCA
5. Hon. John Kyalo Mulyungi, MCA
6. Hon. Patricia Musyimi, MCA
7. Hon. Mark Ndung'u, MCA
8. Hon. Waithira Chege, MCA

IN ATTENDANCE

1. Project Manager-Technofin Kenya Ltd -(Pangani Estate-Urban Renewal Project)

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Project Manager-Technofin Kenya Ltd. on The Urban Renewal and Regeneration project.
3. A.O.B
4. Adjournment



MIN 007/P&H-SESSPNo.1/FEB 2019 – PRELIMINARIES

- Quorum was realised at 11:30 am. The chair opened with a word of prayer.
- The agenda was read by the chair. It was proposed by Hon. Geoffrey Ng'ang'a and seconded by Hon. Daniel Ngengi thereby adopted.
- A round of introductions ensued and opening remarks were made by the chair.
- Present were the project manager Technofin in charge of Pangani Estate, the Director Housing and the Pangani ward MCA.

MIN 008/P&H-SESSPNo.1/FEB 2019 –SUBMISSIONS FROM THE MEETING

- The chair brought to the attention of the developers the contents of the committee analysis of their signed contract.
- Decanting of the sites would be considered differently depending on the size of the land; It would be impossible to have decanting on a 3 acre land thus necessitating permanent relocation to existing tenants by the developer.
- Members noted that contract did not contain clauses requiring the use of locally sourced skills and materials as provided under chapter 3 clause 18(h) of the proposed policy. The developers were in agreement that such a clause ought to be included in the contract.
- Suggestions were made to the effect that a minimum of 60% materials and 90% skills be locally sourced.
- The developers indicated that their contract allots 40% of units to be sold at market rate leaving 60% as low cost housing. This was after realizing that the 30% /70% rate as provided in the policy did not give room for providing affordable houses.
- They were contracted to redevelop 1434 units and that currently they have 48 tenants.
- They also stated that according to their contract the NCCG was to transfer land to them but the county is reluctant on the same.
- The Director Housing indicated that NCCG required support of the area MCA in insuring that the current tenants relocate to pave way for the project.

MIN 009/P&H-SESSPNo.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 12.30 pm.

The next meeting was scheduled for Tuesday 12<sup>th</sup> February, 2019 at 2.00 pm in Committee room No.5.

Confirmed as true record of proceedings

CHAIRPERSON.....D. K. K......DATE 26/02/2019

SECRETARY.....[Signature].....DATE 26/02/2019



MINUTE 04 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY  
COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON  
MONDAY 12<sup>TH</sup> FEBRUARY 2019 AT 2.00 PM AT THE COMMITTEE ROOM 05  
CITY HALL BUILDINGS

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Ruth Ndumi, MCA
3. Hon. Paul Kados, MCA
4. Hon. Geoffrey Ng'ang'a, MCA
5. Hon. Leah Supuko, MCA
6. Hon. Geophrey Majiwa, MCA
7. Hon. Alvin Olando Palapala, MCA
8. Hon. Abdi Ibrahim Hassan, MCA
9. Hon. Elias Otieno Okumu, MCA
10. Hon. Naftali Owuor Ogola, MCA
11. Hon. Carolyne Mayunzu, MCA
12. Hon. Redson Otieno Onyango, MCA

ABSENT

1. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
2. Hon. Joseph Wambugu, MCA
3. Hon. John Kyalo Mulyungi, MCA
4. Hon. Patricia Musyimi, MCA
5. Hon. Mark Ndung'u, MCA
6. Hon. Waithira Chege, MCA
7. Hon. Daniel Ngengi, MCA

IN ATTENDANCE

1. Project Manager, Jabavu Village Ltd-Developer for Jeevanjee/Bachelor Quarters(Urban Renewal Project)

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Project Manager-Jabavu Village Ltd, Jeevanjee/Bachelor quarter estate on the Urban Renewal and Regeneration project.
3. A.O.B
4. Adjournment



MIN 010/P&H-SESSPNo.1/FEB 2019 PRELIMINARIES

- Quorum was realised at 2.09 pm. The chair opened with a word of prayer.
- The agenda was read by the Chair. It was adopted by the Committee upon being proposed by Hon. Leah Supuko and seconded by Hon. Ruth Ndumi .
- A round of introductions ensued led by the Chair. In attendance were: The Director Housing, CEC Lands Urban Planning and Housing and representatives of Jabavu developers Eng. Hassan and Advocate Cynthia Njagi.
- Opening remarks were given by the chair regarding the ongoing consideration of the Housing Policy and more specifically about the public participation forum that had been carried out recently.

MIN 011/P&H-SESSPNo.1/FEB 2019 –SUBMISSIONS EMANATING FROM THE MEETING

- Jabavu is a subsidiary of the Hass Petroleum with over 10 years' experience in real estate.
- They are to do 1546 units, 60% social housing (low income) and 40% affordable.
- They were awarded the contract in 2015 and are still in negotiations with the County up to date thus pleading that the policy formulation be expedited.
- The Committee brought to their attention that certain clauses of their contract differ with the provisions of the Urban Renewal Policy that the Assembly is currently considering thus warranting some amendments to the contracts.
- The land will be transferred by the county to a Special Purpose Vehicle and thereafter a sharing of 20%:80% of the housing to between the County and the developer respectively as per their Joint Venture Agreement.
- The CEC submitted that apart from Pangani, they had issues with contracts of all the developers who had signed contracts in the previous regime.
- The developer's advocate submitted that they had no objection renegotiating the contracts to conform to the impending policy. It was therefore agreed that renegotiations would be done once the policy is unveiled.

MIN 012/P&H-SESSPNo.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 3.17 pm.

The next meeting was scheduled for Wednesday 13<sup>th</sup> February, 2019 at 11.00 am in Committee Room 5, County Assembly Precincts.

Confirmed as true record of proceedings

CHAIRPERSON.....D.K. K..... DATE 26/02/2019  
SECRETARY.....[Signature]..... DATE 26/02/2019



MINUTE 05 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY  
COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON  
WEDNESDAY 13<sup>TH</sup> FEBRUARY 2019 AT 11.00 AM AT THE COMMITTEE ROOMS  
CITY HALL BUILDING

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
3. Hon. Joseph Wambugu, MCA
4. Hon. John Kyalo Mulyungi, MCA
5. Hon. Patricia Musyimi, MCA
6. Hon. Mark Ndung'u, MCA
7. Hon. Ruth Ndumi, MCA
8. Hon. Paul Kados, MCA
9. Hon. Geoffrey Ng'ang'a, MCA
10. Hon. Leah Supuko, MCA
11. Hon. Geophrey Majiwa, MCA
12. Hon. Alvin Olando Palapala, MCA
13. Hon. Daniel Ngengi, MCA
14. Hon. Abdi Ibrahim Hassan, MCA
15. Hon. Elias Otieno Okumu, MCA
16. Hon. Naftali Owuor Ogola, MCA
17. Hon. Carolyn Mayunzu, MCA
18. Hon. Redson Otieno Onyango, MCA

ABSENT

1. Hon. Waithira Chege, MCA

IN ATTENDANCE

1. Project Manager, Green Prestick Ltd for Old Ngara Estate Renewal

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Project Manager Green Prestick Ltd, on the Old Ngara Urban Renewal and Regeneration project.



### 3. A.O.B

### 4. Adjournment

#### MIN 013/P&H-SESSPNo.1/FEB 2019 – PRELIMINARIES

- Quorum was realised at 11.20 am. The chair opened with a word of prayer.
- The agenda was read by the Chair. It was adopted by the Committee upon being proposed by Hon. Geoffrey Majiwa and seconded by Hon. Waithera Chege.
- A round of introductions ensued led by the chair. In attendance were: Mr. Saili Malonza the project advisor, Macharis Thendeu and Maina Gikonyo (Green Prestick) and Edwain Mbaru, legal advisor.
- The chair gave opening remarks and indicated that certain procedures were not adhered to in the signing of the contracts.

#### MIN 014/P&H-SESSPNo.1/FEB 2019 – SUBMISSIONS EMANATING FROM THE MEETING

- Prestick Ltd. is a consortium of two companies.
- Clause 5 of their Joint venture Agreement with the County provides for compensation of existing tenants while the policy provides for the provision of a decanting site.
- Under clause 10 of the JVA, the developer is permitted to increase purchase price of the redeveloped units while chapter 4 of the policy calls for affordable housing for medium and below income earners.
- Prestick Ltd. is willing to renegotiate the contract to be aligned to the Policy document.
- They indicated that a proposed road redesign will have a roundabout encroaching on their site thus they sought the indulgence of the County.
- Kenya Civil Aviation Authority reduced their awarded 68 meters to 42 meters which means reduction of the magnitude of the project. The developers sought the indulgence of the County.
- They also stated that they did not have a title to their site.
- In response to the question on the policy used, the project advisor tabled a document drafted referring to a proposal aligned to the Kibaki Vision 2030 elements. The Committee disputed the document citing that it was never taken



through the process of developing a policy. The CEC never adopted it and neither was it brought before the Assembly for approval.

- The committee established that the document tabled by the project advisor is not what was used to draw the contracts and that the process needed to be redone and the contracts renegotiated.
- The project advisor indicated that he was guided by the National Housing Policy but agreed that the contract was not effective until several factors were considered including approval by the County Assembly and therefore they were ready to renegotiate and align the contracts to the Urban Housing and Renewal policy.
- The developers informed the sitting that they have 73 old tenants in Ngara and that they will be compensated Ksh 30,000 per month by the developer for the period they will be relocated.
- They also indicated that they were unable to determine the number of units they are to develop unless the issue of the road redesign is addressed.

MIN 015/P&H-SESSPN0.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 12.45 pm.

The next meeting was scheduled for Thursday 14<sup>th</sup> February, 2019 at 12.00 noon in Committee Room 5, County Assembly Precincts.

Confirmed as true record of proceedings

CHAIRPERSON..... *D.K.K* ..... DATE *26/02/2019*.....  
SECRETARY..... *[Signature]* ..... DATE *26/02/2019*.....



MINUTE 06 OF THE 1<sup>st</sup> SESSIONAL PAPER SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY COMMITTEE ON PLANNING AND HOUSING HELD ON THURSDAY 14<sup>TH</sup> FEBRUARY 2019 AT 12.00 NOON AT THE COMMITTEE ROOMS CITY HALL BUILDING

PRESENT

1. Hon. Anthony Karanja, MCA - Chairperson
2. Hon. Husni Mohamed Alawi, MCA- Vice Chairperson
3. Hon. Joseph Wambugu, MCA
4. Hon. John Kyalo Mulyungi, MCA
5. Hon. Mark Ndung'u, MCA
6. Hon. Waithira Chege, MCA
7. Hon. Ruth Ndumi, MCA
8. Hon. Paul Kados, MCA
9. Hon. Geoffrey Ng'ang'a, MCA
10. Hon. Leah Supuko, MCA
11. Hon. Geophrey Majiwa, MCA
12. Hon. Alvin Olando Palapala, MCA
13. Hon. Daniel Ngengi, MCA
14. Hon. Elias Otieno Okumu, MCA
15. Hon. Carolyn Mayunzu, MCA
16. Hon. Redson Otieno Onyango, MCA

ABSENT

1. Hon. Patricia Musyimi, MCA
2. Hon. Abdi Ibrahim Hassan, MCA
3. Hon. Naftali Owuor Ogola, MCA

IN ATTENDANCE

1. Meeting with the Director, Erdemann Properties Ltd Ltd-Developer for Ngong road Phase 1&2 (Urban Renewal Project)

COMMITTEE SECRETARIAT

Mr. Joshua Mbila - Clerk Assistant

AGENDA

1. Preliminaries (Prayers & adoption of the Agenda)
2. Meeting with the Director, Erdemann Properties Ltd on the Urban Renewal and Regeneration project.
3. A.O.B
4. Adjournment



MIN 016/P&H-SESSPNo.1/FEB 2019 – PRELIMINARIES

- Quorum was realised at 12.07 pm. The chair opened with a word of prayer.
- The agenda was read by the chair. The agenda was adopted by the Committee upon being proposed by Hon. Daniel Ngengi and seconded by Hon. Ruth Ndumi.
- A round of introductions ensued and opening remarks were made by the Chair.
- In attendance were the Director Erdemann Properties, Steven Sila a representative of the project advisor, Steven Mureithi Ederman's advocate and the CEC Lands.

MIN 017/P&H-SESSPNo.1/FEB 2019 –SUBMISSIONS EMANATING FROM THE MEETING

- The Chair brought to the notice of the developers that the Joint Venture Agreements signed were done in the absence of a County policy and that there is need to review those agreements once the policy is passed.
- Their contract was signed on 17<sup>th</sup> August 2017 between Erdemann and the then County Secretary Ms Ayisi( Ngong Road Phase I)
- The second Ngong road phase II contract was signed on 16<sup>th</sup> August 2018 by Peter Kariuki the County Secretary and Lydia Kwamboka the then County Attorney.
- The Managing Director Erdemann indicated that negotiations to amend the Joint Venture Agreements will necessitate the advocates from both sides to reconsider them. The CEC assured them that once the policy is developed, all the prior contracts will have to be aligned to the policy.
- The total housing units to be done by the developers are 4068 and the County Government would take 848 units while in phase II the county government is to take 20% of the units.
- The Special Purpose Vehicle is fully owned by the County Government. The title deed for phase I is owned by the County Government but an SPV was formed to facilitate development.
- A board established by the County Government to safeguard the project's interests consists of 1 director from the Nairobi County Government and 2 from Erdemann.
- The SPV is called Nairobi Ngong Road Estate Ltd, fully owned by the county government.
- Phase I land value is 4 billion shillings (12.5 acre) and the construction value is 23 billion.
- The mother title is to remain under the county government but sub-leases will be created on the mother titles.
- The developers also stated that they were awaiting KCAA approvals.
- Their buildings will be 34 floors and about 98 meters high.
- Erdemann opposed aligning their contract to the policy to be passed citing that such a requirement would necessitate a legal battle. The committee reiterated



that the Policy is a guideline document of the County and the law has to be followed.

MIN 018/P&H-SESSP No.1/FEB 2019 –ADJOURNMENT

There being no other business, the chairperson adjourned the meeting at 1.54 pm.

The next meeting was scheduled for Tuesday 19<sup>th</sup> February, 2019 at Committee Room 2, County Assembly Precincts.

Confirmed as true record of proceedings

CHAIRPERSON.....D. K. K...... DATE 26/02/2019  
SECRETARY.....[Signature]..... DATE 26/02/2019






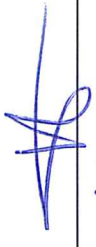






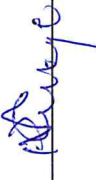




NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY-SECOND SESSION

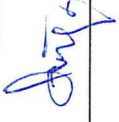

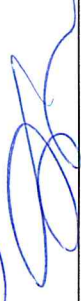

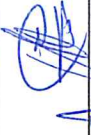



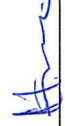




THE PLANNING AND HOUSING COMMITTEE


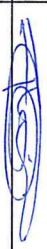

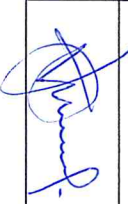
ATTENDANCE: PUBLIC PARTICIPATION EXERCISE AT NAIROBI CITY COUNTY ASSEMBLY CHARTER HALL HELD ON  
TUESDAY 29<sup>TH</sup> JANUARY 2019


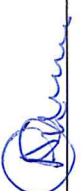
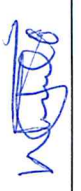









	NAME	DESIGNATION/ORGANIZATION	TEL.NO	SIGNATURE
1.	Joseph Kaguthi	Private	0722-771222	
2.	Georgina Akpana	Private	0720329474	
3.	Douglas Komau	Eastland (Baker)	0725331675	
4.	Edmar Mutsaers	Eastland (Baker)	0710694228	
5.	PETER -N. MURORO	BAAHATI RESIDENTS WELFARE	0734249005	

6.	Zulekha Kiangwa			0712196151	
7.	Fredrick Engidi	STANDUP TO COMMUNITY LEADERS	0720403583		
8.	Victor Odhiambo	STANDUP TO YOUTH	0726 466850		
9.	Rawine Vata	HAKJAMU	0720 233052		
10.	Naomi Barasa	Amnesty International-K	0722-288075		
11.	Samuel Ikua	Mazingira Institute	0726 690832		
12.	Elizabeth Renge	Mungano mw wa wazazi	0721489066		
13.	Joyce WANJIRU	Eastland (Bahari Estate)	0723088584		
14.	PIERRE N. GIKONYO	Eastland, ouing	0710640229		
15.	REBECCA W. MWANGI	EASTLANDS OUTRIGGER	07165146846		
16.	Mary W. Ngatia	East Land. Outrigger	0711 928492		
17.	Andrew Nyaribo	Jecibo	0723438199		
18.	CAROL MATICA	MMLT	0720911774		

19.	Maurice Opiyo	Pamuan	071576103	Deo
20.	Gust Hethamms	Purnawan	0722247665	<del>Deo</del>
21.	Michael Ochoa	SHARIMOTH	0726536435	<del>Deo</del>
22.	Jane Wanjiru	BODENI	0722355588	Deo
23.	CATHERINE WAMERU	BODENI	0722562629	Deo
24.	Judy Nyirira	HOLISMA DEPT (ECN)	0721405728	Deo
25.	JAMES KIKOI	Hanning (NCCG)	0722668767	Deo
26.	<del>ESSEKOL MISOLO</del>	<del>ESSEKOL (GCE)</del>	<del>0722600239</del>	<del>Deo</del>
27.	Alex KAMANI	BATHI	0719811549	Deo
28.	Daniel Mangosi	Ziwanzi Estate	0712350313	Deo
29.	Geoffrey herosi	Hakijamili	0713639776	Deo
30.	Wilson Ogwang	SITHURU-MOTO	0722388932	Deo
31.	David Simeti	" "	0722239855	Deo

32.	Joseph Nduagu Njigwa	SH.	07060630569	
33.	Siregi nureu	K.C.J.C	0716171253	
34.	Timothy Ontungu	Transaction Adviser	0726682267	
35.	DANIEL ORANTIS	HAMBURONJI JUSTICE CENTRE	0727930593	
36.	MOHABIS OTUNGA	CHANDAN SORATHAL NYUMBWA KUMI	0722963313	
37.	RAMADHAN SAID	PUMWANI	0715794570	
38.	CHRISTINE MUNDU	OLD RACE COURSE ESTATE, STALEATE	0722760986	
39.	Mrs Agba M.H.	Pangain	0723841313	
40.	Hellen wanjiru Kiame	Rangani	0723411904	
41.	MARY W. KIMBI	SDHUD	0720458333	
42.	Ruth Wukusah	SDHUD	07202219872	
43.	Richard Angude	BAHATI	072242157	
44.	Peter Nyigeme	NCCG Housing	0720723584	

45.	SAKOU NABUI	EASTHADS PUNUADI	0726-744692	Sakou
46.	KUMU MUNHA	EASTHADS PUNUADI	0725-115590	AK PUNUADI
47.	Joseph Oehiang	ZIMANI	0725062820	<del>AK PUNUADI</del>
48.	Sam Gachag	WOODLEY	0783835130	
49.	Jennifer Mueicki	WOODLEY	0722264875	Jen
50.	EVANS ALLAN OBUU	OUTRING EASTATE	0722666620	AK OBUU
51.	HERESA	EASTHADS PUNUADI	0722941472	
52.	Teinter Charles	URRA 8 PM	0722382822	
53.	Peter Mboya	KALOLEKE 1	0722449522	AK
54.	Lynnia Munde	MBOREI/MUWALEKE	0722 362 309	AK
55.	Sakou Ngaki	PANGUIN ESTATE	0722033919	AK
56.	PATRICK MACHARA 14	KAKALEM ESTATE	0710-167-161	

57.	BENJAMIN NZINGA	MBOTELA ESTATE	0725405525	
58.	Anthony Odoro	Tereka	0712173047	
59.	Walter Marin	KIVULI	0727890972	
60.	Raphael N'Ngure	Jericho / Nairobi City	0722878080	
61.	Shyleen Muya	Wangongu Ndichu & company advocates	070162710	
62.	Fenny Akingi	CSD - EXCOR	0705321094	
63.	Maria Christyphen	civil society reference group Bungula Munarohi	0792000689	
64.	Muthoni Makau M.	NECCG - Urban Renewal & Housing climinic mutinda S31 @ yghawawa	0721-258171	
65.	Dominic Mutinda		0720416773	
66.	Aamed Rombu	Shawi Moyi Estate	0726640388	
67.	Wachira Bernard	Shawi-moyi ES8	0725849979	
68.	Frederic Musumbi	Upper Savdich BASTOR	0722-320924	

69.	Levald Ngula	Pansa Trust	0729814765	Agre.
70.	ALVIN KAVUVO	Teneto	0728235532	<del>Agre</del>
71.	KENNETH ADAGALA	LUMUMBA	0724347411	<del>Agre</del>
72.	Jimmy Imbali	sumwura	7114223545	by
73.	Charles Odus	Endara	0721344962	Agre
74.	Paul Peter Parker	Pumani Bumbi	072207525	Agre
75.	Maiti Mw	Old Ngere	073098201	Agre
76.	Kenneth R. RITHO	Pumani	0720888717	Agre
77.	Sethi nd Kimba	mbatela	0726919050	Agre
78.	STANLEY KENNETH	M.C.C. KASIMBA	0721615522	Agre
79.	MICHAEL NJOROGI KIMBA	Jamba	0706579591	Agre
80.	Joseph Givengo Kambisi	Jamba	079946739	Agre

81.	Abdulraheem Ibrahim Adani	New Ngara Estate	070480446 / 0722521200	<del>Atoll</del>
82.	Henfrey Oluo	Oluru Estate	0713816101	<del>Atoll</del>
83.	D. Ayieo Charles	COMA-IL	080347520	<del>Atoll</del>
84.	SPRING WILSON	new ngara Estate	0726722227	<del>Atoll</del>
85.	James Oluo	Kaleni Estate	0712-727710	<del>Atoll</del>
86.	Philip Uluo	Kaleni Estate	0724164350	<del>Atoll</del>
87.	STEPHEN KAMAU	WAIHAKA	0720790682	<del>Atoll</del>
88.	Mulo George	ghetto Radio	0720951399	<del>Atoll</del>
89.	Patrick Kamau	Central Ward	0775919440 0723033334	<del>Atoll</del>
90.	Samuel Ngeru	Outlying Rel Est.	0722-210028	<del>Atoll</del>
91.				
92.				

# POLICY DOCUMENT



# **NAIROBI CITY COUNTY**



## **URBAN HOUSING RENEWAL AND REGENERATION POLICY**

**THURSDAY, 20 DECEMBER 2018**

**© ALL RIGHTS RESERVED  
NAIROBI CITY COUNTY**

## CONTENTS

FOREWORD.....	7
ACRONYMS AND ABBREVIATIONS.....	8
LIST OF STATUTES, POLICIES AND STATUTORY INSTRUMENTS.....	9
CHAPTER 1: INTRODUCTION.....	10
Nairobi City County Information.....	10
Geography and History.....	10
Demographics.....	10
The Housing Situation in Nairobi.....	11
The Problem of Decayed Residential Estates.....	12
CHAPTER 2: POLICY PRINCIPLES AND OBJECTIVES.....	15
CHAPTER 3: THE CONCEPT AND DRIVERS OF URBAN RENEWAL.....	17
Meaning of Urban Renewal.....	17
Approaches to Urban Renewal.....	17
Rationale for Urban Renewal.....	18
Priority Factors.....	19
Land Use Planning and Management.....	19
Environmental Considerations.....	20
Waste Collection and Management.....	21
Density and Building Scale.....	22

Infrastructure.....	23
Green spaces.....	24
Open Spaces.....	24
Water Collection, Use and Management.....	24
Energy Efficiency .....	25
Public Transport and Utilities.....	25
CHAPTER 4: PRINCIPLES OF RENEWAL OF URBAN RESIDENTIAL ESTATES.....	26
Accountability.....	26
Long-term vision .....	26
Public Participation.....	26
Designing for the residents in mind .....	27
Optimal Land Use .....	27
Affordability.....	28
Mixed-Use Development .....	28
Mixed Income Estates .....	29
Clarity of Objectives.....	29
Sustainability.....	30
Diversity .....	30
Social Impact Assessment .....	30
Social and Economic Renewal.....	31

Preservation of Heritage.....	31
CHAPTER 5: IMPLEMENTATION STRATEGY .....	32
Scoping.....	32
Planning.....	32
Framework Plan.....	32
Master Plan .....	33
Institutional Arrangements .....	33
Financing .....	34
Establishment of a Public Corporation.....	34
Bond Financing .....	35
Equity Contribution of Land.....	35
Commercial Borrowing.....	35
Public-private partnerships .....	35
Implementation .....	36
CHAPTER 6: ISSUES SURROUNDING RENEWAL .....	37
Public Participation.....	37
Decanting.....	38
House Allocation.....	39
Land Acquisition.....	39
Land Use in Renewed Estates.....	39

Maintenance and Management of Redeveloped Housing Units .....	40
CHAPTER 7: DISPUTE RESOLUTION .....	42
Early Warning Clauses .....	42
Negotiation Clauses .....	42
Conciliation and Mediation Clauses.....	42
Expert Determination .....	42
Arbitration.....	42
CHAPTER 8: POLICY ENFORCEMENT AND IMPLEMENTATION.....	43
Policy implementation.....	43
Policy Enforcement .....	43
CHAPTER 9: THE PREVAILING REGULATORY FRAMEWORKS.....	44
The Constitutional Framework .....	44
Statutory and Policy Frameworks.....	45
The Housing Act.....	45
The County Governments Act and the Urban Areas and Cities Act .....	45
The Physical Planning Act.....	47
The Public Health Act .....	48
The Building Code.....	48
The National Housing Policy (Sessional Paper No. 3 of 2004) .....	49
The National Land Use Policy .....	50

The Kenya Vision 2030.....	51
Nairobi Metro 2030.....	52
The "Big Four" Agenda .....	52
CHAPTER 10: SUMMARY OF RENEWAL POLICIES AND STRATEGIES .....	54

## URBAN HOUSING RENEWAL AND REGENERATION POLICY

## FOREWORD

The formulation of the Urban Housing Renewal and Regeneration Policy marks an important milestone in Nairobi City County's strive towards the fulfilment, respect, observance, promotion and protection of the right to housing. The Policy gives effect to Article 43 (1) (b) of the Constitution, which is the legal and constitutional framework on the right to housing in Kenya.

The successful renewal and regeneration of Nairobi City County's decayed estates requires the development and adoption of an overarching coherent policy framework that provides guidance to all actors regarding the specific tasks that need to be accomplished to ensure that the redevelopment projects are seamlessly and sustainably realised.

The County Government of Nairobi adopted a highly consultative approach in the development of the policy conscious that the success and credibility of the national undertaking largely depends on the broad support it receives from all sectors of residents of Nairobi.

The formulation of this policy is a testimony to the desire and resolve of the County Government of Nairobi to provide affordable housing and improved living environments to the residents of Nairobi.

.....  
*Charles Kerich*

COUNTY EXECUTIVE COMMITTEE MEMBER – LANDS, URBAN PLANNING, URBAN RENEWAL, HOUSING &  
PROJECT MANAGEMENT

## ACRONYMS AND ABBREVIATIONS

Eurocodes	European Construction Guidelines developed by the European Committee for Standardisation
KNBS	Kenya National Bureau of Statistics
NCCG	Nairobi City County Government
NEMA	National Environment Management Authority
SIA	Social Impact Assessment
EIA	Environmental Impact Assessment

## LIST OF STATUTES, POLICIES AND STATUTORY INSTRUMENTS

Building Code.

Constitution of Kenya, 2010.

County Governments Act, 2012.

Housing Act.

International Covenant on Economic, Social and Cultural Rights.

Kenya Vision 2030.

Nairobi Metro 2030.

National Housing Corporation Act.

National Housing Policy for Kenya, Sessional Paper No. 3 of 2004.

Physical Planning Act.

Public Private Partnerships Act, 2013.

Universal Declaration of Human Rights.

Urban Areas and Cities Act.

Building Code.

## CHAPTER 1: INTRODUCTION

### Nairobi City County Information

#### *Geography and History*

- 1 Nairobi City County is situated between Mombasa and Kampala cities. The city itself is centered on the City Square located in the Central Business District.
- 2 Nairobi City, similar to most urban centres in Kenya, owes its origins to the Kenya-Uganda Railway. The city was first settled in 1896. The relocation of the headquarters of the Kenya-Uganda railway from Mombasa to Nairobi spurred the city's growth from a waste marshland to a commercial hub of the British East Africa Protectorate.
- 3 As at 1900, the city had flourished as a settlement for the European and Asian workers employed as railway constructors. At the time, there was no African settlement in the area. In 1907 the colonial government designated Nairobi as the capital of Kenya. The town was declared a city in 1950.

#### *Demographics*

- 4 Presently, Nairobi is Kenya's largest city by population and one of the fastest growing cities in Africa. According to the 2009 census conducted by the Kenya National Bureau of Statistics ("KNBS"), Nairobi City had:
  - (a) a population of 3,138,369 persons;
  - (b) a population density of 4,516.29 persons *per square metre*.
- 5 The Kenya National Bureau of Statistics projects the city's population to grow at an annual rate of 4%. The city's high population growth rate is attributed to the increased rural-urban migration and high birth rate. It is estimated that the population of the city will hit 5 million persons by 2025.
- 6 The main drivers of the population increase in the city have been the increased rural-urban migration and natural population increase over the years. It is estimated that approximately 1000,000 Kenyans migrate to Nairobi City every year.
- 7 Even though the city's population and size has grown in leaps and bounds since the city's establishment, such growth has not been checked with adequate planning. The

unregulated growth has led to a lot of challenges within the city, key among them being housing.

### **The Housing Situation in Nairobi**

- 8 Like most cities in developing countries, the housing situation in Nairobi City is characterized by an acute shortage of affordable housing. Put differently, the demand for affordable housing far outstrips the supply. As at 2018, only 35,000 new homes were constructed against an annual demand of 120,000 homes. The shortage of affordable housing units has manifested itself in overcrowding and sprawl of informal settlements.
- 9 The housing stock in the city comprises a mixed pattern of high-rise and tenement developments to informal settlements, which house the middle and low-income segments of the city's population respectively.
- 10 Many implementation strategies have been adopted to improve the housing situation in the city and the country at large. For instance, the period spanning 1930 and 1960 was characterized by government investment in public housing to house government employees. During this period, the colonial government restricted urban population to comprise of the city's workforce only.
- 11 Soon after Kenya attained her independence in 1964, investment in public housing shrank largely due to dwindling state resources and a fast growing population that following the lift of the colonial government's ban of rural-urban migration. This era witnessed the private sector's first major participation in housing supply. However, the private sector's motivation for profit and higher returns meant that it focussed on the mid and high income segments of the population leaving many of the low-income residents without proper housing.
- 12 The colonial government envisioned Nairobi as a European city, where Africans were 'tolerated' only for their labour. Though the concept of "no man's land" the colonial government acquired large swathes of land as either private property or as leases extending to 999 years without regards to the needs and aspirations of the indigenous populations.

- 13 The colonial government racially segregated the city into four distinct zones or sectors, namely the Asian Sector (i.e. the Nairobi East comprising estates such as Parklands, Eastleigh and Pangani); the European Sector (i.e. the North and West); and the African Sector (i.e. South East and parts of the East comprising estates such as Kariokor, Pumwani and Donholm).
- 14 The first land use or zoning policy in Nairobi appeared in a 1948 master plan. The 1948 master plan was based on the colonial policy of racial segregation. The colonial administration, which conceived the 1948 master plan, envisioned Nairobi as a racially segregated city characterised by (*inter alia*):
- (a) a *minority* European/Asian population as the main residents;
  - (b) *restrictions* on the travel and residency of the *majority* African population; and
  - (c) consequently, in view of (a) and (b) above, a *sparse* population density.
- 15 The segregation policies of the colonial era confined Africans to informal or poorly planned and inadequately serviced areas. There have been many land use and zoning policies since the end of colonialism in 1963. Notable ones include the 1973 Nairobi Metropolitan Growth Strategy and various sectoral development plans developed targeting specific residential estates within the city.
- 16 All the extant policies share a common drawback; they did not adequately address the housing needs of the majority of the city's residents. Specifically, the extant policy frameworks did not adequately address:
- (a) the housing needs of the poor, who constitute a majority of the city's population;
  - (b) the issue of sustainable urban land use; and
  - (c) the continuous renewal and regeneration of old housing estates.

#### **The Problem of Decayed Residential Estates**

- 17 The problem that inspired the formulation of this policy document has three interrelated dimensions. First, many of Nairobi's old residential estates (hereinafter, "**the old estates**"), having been constructed during the colonial period, have since become dilapidated and unconnected or insufficiently connected to basic social amenities and

services. Secondly, the old estates were conceived, planned and constructed without (sufficient) regard to future demographic trends and the imperative of sustainable urban land use. Lastly, the extant policy frameworks failed to attract private investment in low cost housing.

- 18 The above problems, tied with the ever-increasing demands on the public purse, left most Nairobi residents without access to decent and affordable housing. Relatedly, the old estates are in an unsatisfactory state in terms of aesthetic appearance, maintenance, hygiene, infrastructure and security.
- 19 The old estates are typified by low-rise housing units spread over extensive parcels of land. Nairobi, however, has experienced an ever-increasing rural-urban migration since the end of colonial rule in 1963. Most of the rural-urban migrants are low-income earners who, over the years, have settled in the old estates.
- 20 The old estates have decayed due to (*inter alia*):
  - (a) increased rates of occupancy, arising mainly from rural-urban migration; and
  - (b) lack of maintenance and poor management.
- 21 The problems facing the old estates are largely a natural consequence of the colonial legacy and the extant policy and regulatory frameworks described above. In summary, the structural, physical planning and land use problems of the old estates include:
  - (a) structural faults;
  - (b) overstretched infrastructure;
  - (c) illegal extensions;
  - (d) poor housing stock due to the low-rise building designs;
  - (e) lack of variety in sizes and types of housing units;
  - (f) inadequate health facilities and services;
  - (g) inadequate water, sewerage and sanitation facilities and services;
  - (h) inadequate educational facilities and services;
  - (i) inadequate recreational facilities and services;
  - (j) inadequate public transport facilities and services;
  - (k) inadequate garbage collection and solid waste management services; and

(l) informal and unregulated economic activities (e.g. unsafe food vending points, hawking and retail kiosks).

22 In view of the foregoing, and the natural inelasticity of land, there is an urgent need for renewal and regeneration of the old estates. This document, therefore, seeks to provide a coherent long-term policy framework for the sustainable resolution of the myriad social, habitation, structural, physical planning and land use problems facing the old estates.

## CHAPTER 2: POLICY PRINCIPLES AND OBJECTIVES

- 1 The main objective of this document is to provide a coherent long-term policy framework for the sustainable and continuous resolution of the myriad social, habitational, structural, physical planning and land use problems facing the old estates. This will be achieved through continuous rehabilitation, overhaul, renewal, redesign and redevelopment of the old estates to accommodate the changing needs of the city's population.
- 2 The specific objectives of this Policy Document are to:
  - (a) promote sustainable urban land use in the old estates;
  - (b) encourage private investment in the provision of decent and affordable housing in the city;
  - (c) increase housing stock in the old estates, by shifting from low-rise to high-rise building designs;
  - (d) rehabilitate or refurbish dilapidated housing units in the old estates;
  - (e) encourage the preservation of sites and structures of significant historical or cultural value;
  - (f) provide appropriate housing and infrastructure for disadvantaged groups or groups with special needs, such as the elderly and persons living with disabilities;
  - (g) establish mechanisms for guaranteeing the long-term structural integrity of buildings within the old estates;
  - (h) increase the variety in sizes and types of housing units;
  - (i) secure reasonable access to health facilities and services within the old estates;
  - (j) secure reasonable access to water, sewerage and sanitation services within the old estates;
  - (k) secure reasonable access to basic education facilities and services within the old estates;
  - (l) secure reasonable access to recreational facilities within the old estates;
  - (m) ensure the availability of adequate public transport facilities and services within the old estates;

- (n) secure the provision of adequate garbage collection and solid waste management services within the old estates;
- (o) improve the physical environment and enhance the aesthetic appeal of the old estates;
- (p) improve the living conditions of persons residing in the old estates;
- (q) improve the personal security and safety of the residents of the old estates;  
and
- (r) diversify the land use of the old estates by adopting a mixed-use development approach to renewal.

## CHAPTER 3: THE CONCEPT AND DRIVERS OF URBAN RENEWAL

### Meaning of Urban Renewal

- 1 The renewal and regeneration of the old estates is a *sine qua non* for the realisation of the right to decent, adequate and affordable housing in Nairobi. The phrase 'urban renewal,' also commonly referred to as 'urban regeneration,' generally refers to rehabilitation, redesign and/or redevelopment of decayed urban sites.

### Approaches to Urban Renewal

- 2 Generally, renewal projects can be achieved through any, or a combination of, the following approaches, namely:
  - (a) rehabilitation; and
  - (b) redevelopment.
- 3 A rehabilitative approach to urban renewal is aimed at preserving, repairing, and restoring the existing estates. Rehabilitative approaches to renewal will be relevant for estates comprising housing units that are generally structurally sound but have deteriorated due to neglect in maintenance.
- 4 Redevelopment approaches to renewal refer to demolishing the existing physical structures, and replacing them with new buildings. Redevelopment will be employed in those estates where land-use is sub-optimal and/or housing units are severely dilapidated.
- 5 The Nairobi City County Government ("the NCCG") shall decide between which of the renewal approaches to implement on a case-by-case basis, depending on:
  - (a) the condition of each estate;
  - (b) current and projected future demographic trends; and
  - (c) the imperative of sustainable urban land use management.
- 6 Rehabilitation shall be the preferred approach where the old estates can sustainably be renewed and regenerated without the need for complete overhaul. Redesign and redevelopment, on the other hand, shall be the preferred approach where:

- (a) the structural integrity of buildings cannot guarantee human health or safety; or
- (b) rehabilitation would not be consistent with sustainable urban land use management.
- (c) the redesign and redevelopment model will entail making adequate provision for, *inter alia*, the following in each of the old estates:
  - i. long-term structural integrity of buildings;
  - ii. adequate housing stock, through high-rise building designs;
  - iii. variety in sizes and types of housing units;
  - iv. reasonable access to health facilities and services;
  - v. reasonable access to water, sewerage and sanitation services;
  - vi. reasonable access to basic education facilities and services;
  - vii. reasonable access to recreational facilities;
  - viii. adequate public transport facilities and services; and
  - ix. adequate garbage collection and solid waste management services.

#### **Rationale for Urban Renewal**

- 7 Urban decay is a natural and inevitable consequence of the passage of time. Continuous occupation of aging urban residential estates by ever-increasing human populations leads to dilapidation of housing structures and deterioration of social amenities.
- 8 The pith of the urban renewal or regeneration programs undertaken under this Policy will be to revitalise structures which have ceased to fulfil the purposes for which they were originally designed. The concept of sustainable development, that is development that addresses the needs of both current and future generations, will be at the core of urban renewal programs undertaken under this Policy.
- 9 All programs for renewal and regeneration of the old estates shall seek to (*inter alia*):
  - (a) optimize land use in the estates;
  - (b) guarantee universal access to basic amenities;
  - (c) improve the aesthetic appeal of the housing units and structures;

(d) resolve socioeconomic problems such as –

- i. unsanitary, deficient, or obsolete housing;
- ii. inadequate transportation, sanitation, and other services and facilities;
- iii. haphazard or inefficient land use;
- iv. traffic congestion; and
- v. sociological correlates of urban decay, such as crime.

#### **Priority Factors**

10 The NCCG shall consider the following factors in determining whether to renew any one or more of the old estates in priority to another or others:

- (a) the living conditions of residents;
- (b) state of decay or dilapidation of housing units and support infrastructure;
- (c) population density;
- (d) deprivation or scarcity of water, sanitation and other social amenities and services;
- (e) predisposition to epidemics, fire, flooding and other forms of catastrophe;
- (f) realisable improvement in land use efficiency;
- (g) budgetary constraints; and
- (h) availability of non-budgetary financing options.

#### **Land Use Planning and Management**

- 11 Rural-urban migration naturally strains social amenities and other urban infrastructure. This, and the natural scarcity and inelasticity of land as a resource, constrains governments to resort development planning and other forms of land use control. Land use and zoning regulations exert controls on land use, minimum parcel sizes, building heights, plot ratio, etc.
- 12 The old estates have decayed and become dysfunctional due partly to the fact that they were created without due regard to the need for sustainable social services and infrastructure. The challenges of poor planning, lack of community participation in development planning, inadequate supply of housing, poor integration of provision of

infrastructure and services, and unsustainable use of construction materials continue to affect the old estates.

13 To ensure sustainable development in the renewal of the old estates, the NCCG shall:

- (a) conduct a parcel study of the old estates to determine the feasibility of rezoning;
- (b) rezone inappropriately zoned estates; and
- (c) promote optimal utilization of land within and around the old estates.

#### **Environmental Considerations**

14 An important challenge facing all major cities in the world is the need to ensure that urban areas remain not only economically viable but also environmentally sustainable. For urban renewal, the projects should be implemented in a way that meets the needs of present residents without compromising the ability of future generations to meet their own needs.

15 The NCCG shall prioritise the following in all projects involving renewal and regeneration of the old estates:

- (a) energy efficiency, with emphasis on clean and renewable energy;
- (b) community participation in planning;
- (c) ecologically friendly technologies;
- (d) mass public transport systems;
- (e) sustainable water resources management;
- (f) sustainable waste management, including recycling;
- (g) reduction of environmental pollution and degradation;
- (h) buildings and building designs that;—
  - i. are adaptable to future changes in use, technology and planning legislation;
  - ii. use, safe, durable and flexible construction materials;
  - iii. use locally available materials and skills;
  - iv. are energy and water efficient;
  - v. maximize penetration of day-light;

- vi. use green infrastructure such as eco roofs, green walls e.t.c.; and
- vii. observe the existing housing and environmental laws.

#### *Waste Collection and Management*

- 16 Currently, Nairobi experiences an insufficient waste collection and transportation capacity both at the NCCG level and the private sector level. To compound the problem, most private garbage collection trucks are small in size and incapable of undertaking waste transportation over long distances. It also does not help that most of the trucks are in poor mechanical condition.
- 17 During the demolition and construction phases of the renewal projects, the NCCG and the relevant contractors shall make every attempt to implement the best waste management practises including:
  - (a) minimising waste materials including packaging items delivered to the renewal sites;
  - (b) adoption of reclamation led approaches to demolition, guided by re-use and recycling of demolition materials; and
  - (c) local sourcing of construction materials.
- 18 The NCCG shall work towards implementing a waste management policy based on the principle of self-sufficiency and proximity; i.e. that as far as practical, waste should be managed close to its source.
- 19 To enhance waste collection and transportation in the decayed estates, the NCCG shall:
  - (a) encourage private sector participation in waste collection and transportation through a myriad of economic and development incentives; and
  - (b) focus its resources on regulation and supervision leaving the actual collection and transportation tasks to the private sector.
- 20 To ensure that the waste generated in the redeveloped residences is recycled (for use or release back into the environment), the NCCG shall:
  - (a) encourage the use of non-toxic products;
  - (b) encourage the recycling of waste; and

- (c) encourage residents to separate recyclable and non-recyclable waste at the source.

### *Density and Building Scale*

- 21 High and mid-rise apartment complexes will be constructed in place of the decayed bungalows existing in the old estates. The apartment complexes will be constructed pursuant to the prevailing storey heights prescribed within each zone.
- 22 Where the NCCG deems it necessary to construct apartments taller than the prescribed storey heights, the NCCG shall consider rezoning the relevant residential area to permit construction of the intended storey heights.
- 23 The NCCG shall adopt medium and high density development for the old estates. The developments will general comprise a mix of perimeter block style development of 1, 2, 3, and 4 bedroom apartments.
- 24 High and medium densification will be the most relevant for the old estates which lie in close proximity to the central business district. High density development, when properly implemented, will lead to:
  - (a) more housing choices;
  - (b) accommodation of different kinds of lifestyles;
  - (c) reduction of emissions, through good public transport systems;
  - (d) optimal use of the available land;
  - (e) better use of technical infrastructure;
  - (f) undisturbed natural areas and green spaces; and
  - (g) increased safety and security.
- 25 To achieve the right density in the old estates, the NCCG shall:
  - (a) implement zoning changes to allow for construction of mid and high-rise housing units;
  - (b) streamline development control in the city and strive towards strict enforcement of existing zoning and planning regulations;
  - (c) deploy adequate personnel to monitor development projects in the city; and

- (d) regulate the minimum and maximum number of housing units allowed per hectare.

26 The NCCG shall consider the following factors in implementing the densification projects:

- (a) the carrying capacity of the target residential estate;
- (b) the terrain and topographical features of the target estate;
- (c) retention of vegetation.

### *Infrastructure*

27 Most of the old estates are not adequately provided with infrastructure such as safe water, sanitation, drainage, solid waste disposal services, and transportation infrastructure. This phenomenon negatively affects the quality of environment required for living. There is therefore a need for development that takes into cognizance the provision of basic infrastructure and services.

28 To ensure adequate provision of infrastructure and services in the old estates, the NCCG shall:

- (a) promote an integrated approach that brings together infrastructure and service providers at the planning stage of redevelopment project;
- (b) promote energy saving technology and encourage the use of alternative/renewable energy sources in the redeveloped estates;
- (c) provide initial basic services and infrastructure in pre-developed and developed areas;
- (d) adopt appropriate standards for infrastructure and services in the redeveloped estates;
- (e) improve the existing infrastructure services in the old estates by, inter alia –
  - i. expanding the road networks;
  - ii. investing in efficient mass transport systems; and
  - iii. upgrading water and sewer lines.
- (f) provide safe and secure pedestrian and bicycle lanes to encourage non-motorized transport.

### *Green spaces*

- 29 The NCCG shall plant trees and vegetation to cover at least 30% of the old estates. The perimeter walls to be constructed around the old estates should incorporate green design to allow for climbers and other green cover.
- 30 Further, the NCCG shall encourage the use of eco roofs for buildings, walkways and parking spaces to regulate the micro climate of the old estates.

### *Open Spaces*

- 31 As currently constituted, the old estates either fall within areas lacking in public open spaces or deplorable public spaces. Accordingly, it is imperative for the renewal projects to improve the existing open public spaces in the residential estates or construct them where there are none.
- 32 The open spaces will act as entertainment or relaxation areas for the residents. They will also function as venues for social events and gatherings.
- 33 The NCCG shall ensure the provision of open spaces in the renewed estates. To this end, the NCCG shall not approve development plans that would result in the loss of public open spaces. For instances where the loss of a public space would be unavoidable, the NCCG shall expect a replacement public space elsewhere within or close the target residential estate.

### *Water Collection, Use and Management*

- 34 Water is an essential prerequisite for life. To ensure efficient utilization of the available water resources, the renewal projects shall be designed in ways that maximize water collection, conservation, storage, treatment, recycling and re-use. To achieve this, the designs of the redeveloped estates shall (*inter alia*):
  - (a) reduce water consumption through installation of efficient outlets and fixtures;
  - (b) match water quality to end use; and
  - (c) maximize the collection of rain-water and surface run-offs.

- 35 The water drainage channels shall be regularly cleaned and maintained to avoid clogging. The NCCG shall, in conjunction with NEMA, enforce the existing riparian laws to protect fragile wetlands and ecosystems in the city.

#### *Energy Efficiency*

- 36 To ensure that the redeveloped housing units are energy efficient, the NCCG shall:
- (a) ensure that the designs of the housing units allow for sufficient natural light;
  - (b) ensure that buildings are designed to harness solar power for street lighting, water heating and other domestic uses;
  - (c) ensure that buildings are designed to use reflective material and bright colours to reduce heat gain and heat loss;
  - (d) encourage residents to adopt the use of energy efficient appliances and technologies.

#### *Public Transport and Utilities*

- 37 The NCCG shall ensure the provision of secure, well-lit lanes for pedestrians and other non-motorized transport modes in the roads forming part of the old estates. The NCCG shall consider the provision of efficient mass transport systems and efficient fixed-schedule-fixed route public road transport systems to reduce the use of private cars. These strategies will reduce energy consumption, pollution and traffic congestion associated with private motor vehicles.
- 38 Installation of utility systems shall be undertaken in a way that minimizes disturbance to the natural environment. For instance, utility lines may be installed near roads and pedestrian paths where the natural environment is already disturbed.

#### CHAPTER 4: PRINCIPLES OF RENEWAL OF URBAN RESIDENTIAL ESTATES

- 1 Sustainable urban renewal programs embody certain principles, which have at their root the interests of the residents. The Constitution of Kenya, 2010 (hereinafter, "**the Constitution**") sets out certain national values and principles of governance, which transcend all aspects of public decision making in Kenya, including the making of public policies.

##### **Accountability**

- 2 Generally, accountability is about taking responsibility and explaining one's acts and omissions, especially when propriety or validity of such acts and omissions is brought into question.
- 3 The renewal of the old estates must be responsive to the needs of residents of Nairobi County and citizens of Kenya. The NCCG shall be open, transparent and accountable to the public in its affairs regarding the renewal of the old estates.

##### **Long-term vision**

- 4 As explained in chapter 1 above, the decay and dysfunctional status of the old estates has arisen due mainly to the short-term vision that underlay their conception, design and construction.
- 5 A long-term, innovative and sustainable approach to urban renewal and regeneration is far superior to popular but unsustainable short-term approaches. Where the time frames for planning and delivery are unrealistically compressed, the urban renewal objectives may be misguided or too costly.
- 6 The NCCG, therefore, shall avoid an approach to renewal and regeneration of the old estates that is unreasonably put 'on fast forward' or compressed to fit into particular electoral cycles.

##### **Public Participation**

- 7 Public participation is an important national value and principle of governance, codified in the Constitution. It seeks to place citizens at the centre of public decision making and reverse the country's past legacy of a top-down approach to governance.

- 8 The NCCG shall establish and facilitate effective public participation and community engagement in renewal programs relating to the old estates. This way, the residents of the estate will buy into the process of the renewal of the old estates.

#### **Designing for the residents in mind**

- 9 Urban residences house and serve people. Thus, making them people friendly is essential. The NCCG shall ensure that the design thinking of the old estates focusses on the needs and convenience of residents of the estates and communal sustainability.
- 10 To achieve sustainable renewal, the design of the residences should focus, as far as practicable, on practices that embody the minimum possible disturbance to residents of the old estates.
- 11 To this end, the NCCG, contractors and developers shall be guided by (*inter alia*) the following general considerations:

- (a) preservation and enhancement of the native landscape and its natural resources;
- (b) planning the renewal pursuant to the unique features of the relevant estate rather than implementing standardized plans;
- (c) assessing impact of each renewal project on the environment and the social fabric of each of the old estates;
- (d) minimising water channel alteration and vegetation disturbance;

#### **Optimal Land Use**

- 12 There is no point in renewing an estate only to re-create its existing problems. Intensifying land use is one way of optimizing the land usage of the old estates. However, intensity should not only mean density. Rather, it should include viability, vibrancy, complexity, quality and diversity.
- 13 The optimal use of land envisioned under this policy is one that is not only appropriate for its place, but also able to respond to changing needs of residents in the long term.
- 14 To address the issues of population growth, land scarcity and optimal land use, the NCCG shall:
- (a) establish land banks to make it easy for people to access affordable serviced land for affordable housing development;

(b) establish land banks and make land available for redevelopment and resettlement;

(c) procure land for land banks through purchase and donations;

### **Affordability**

15 According to the National Affordable Housing Summit Group of Australia, affordable housing is that which is reasonably adequate in standard and location for lower or middle-income households and does not cost so much that a household is unlikely to meet other basic needs on a sustainable basis.

16 The NCCG shall ensure that the redeveloped housing units are affordable i.e. are reasonably priced for that segment of Nairobi's population with the median household income or below.

### **Mixed-Use Development**

17 The key to success of the renewal projects will be a vibrant, diverse mix of land use anchored within the target residential estates.

18 To this end, the NCCG shall adopt a land use mix that includes a significant number of affordable apartments units, and a corresponding amount of retail and office development. The quantum of the retail and commercial spaces will be assessed and ascertained on a case by case basis based on the unique requirements of the target residential estates.

19 Specifically, the mixed-use development of the renewed estates shall strive to incorporate residential, commercial, institutional, cultural, and where necessary, industrial uses. Adoption of mixed-use developments for the target residential estates will result in many advantages, including:

- (a) greater housing density and variety;
- (b) reduced distances between residential units, work-places and businesses;
- (c) creation of vibrant new estates;
- (d) avoidance of construction of illegal extensions on the renewed estates;
- (e) more compact development and optimal use of land; and

- (f) diversification of the economy.

### **Mixed Income Estates**

- 20 Mixed income estates are more sustainable in the long term than mono-tenure estates. A major challenge to be addressed during the urban renewal will be the need to provide quality public housing while avoiding the creation of mono-tenure segregated estates.
- 21 Evidence from Dublin, Ireland shows that single-class segregated estates can negatively impact:
  - (a) *economy*. This is because if low-income households concentrate in one area, money available to support local economic activities and commercial services is likely to be scarce; and
  - (b) *Social Fabric*. If unemployed and low-income households concentrate in one area, the wider social networks necessary to access employment and other economic opportunities are reduced.
- 22 On the other hand, replacement of single-class segregated classes with mixed-income estates leads to:
  - (a) more money to support local economic activities;
  - (b) improved reputation and confidence of the old estates;
  - (c) greater diversity; and
  - (d) increased tenant satisfaction.
- 23 To realise the benefits of mixed-income estates, the NCCG shall strive to introduce mixed income estates in the redeveloped estates.

### **Clarity of Objectives**

- 24 After understanding the development rationale and agreeing on the design standards, the stakeholders involved in the renewal project shall develop clear, measurable objectives of the proposed renewal projects. The best objectives shall anticipate possible physical, economic and social outcomes in the delivery of the project.
- 25 A rigorous planning process involving the evaluation and development of a variety of possible options will be undertaken. To evaluate the options, it may become necessary for the NCCG to establish 'base case' to estimate the consequences of failing to

undertake the urban renewal intervention. The options identified at the planning stage will then be juxtaposed with the base case to reveal a better picture of the marginal costs and benefits associated with the relevant renewal program.

### **Sustainability**

26 Each estate renewal project should bring ecological betterment to the estate and its neighbourhood.

27 To this end, the NCCG shall:

- (a) adopt sustainability initiatives that go beyond mere building of houses.
- (b) encourage environment-friendly communities by prioritizing mixed-use developments and rapid mass public transport systems.

### **Diversity**

28 Apartment complexes that have singular use and a singular look quickly become monotonous. Monotony breeds boredom, which in turn leads to disuse.

29 To avoid monotony and disuse, the NCCG shall strive towards aesthetic and demographic diversity in undertaking the renewal projects. A successful estate renewal will promote functional, aesthetic and demographic diversity.

### **Social Impact Assessment**

30 Before implementing a renewal project, the NCCG shall undertake a social impact assessment of the proposed renewal and the accommodation needs of the residents to be affected by the renewal. Specifically, the NCCG shall:

- (a) assess the housing needs of the residents of the old estates;
- (b) as far as practicable, adopt a combined approach of renovating existing housing units that are structurally sound and demolishing dilapidated units to make way for new units; and
- (c) encourage and provide incentives to homeowners to renovate and expand existing housing units.

31 Further, the NCCG shall ensure the provision of the following features for social sustainability:

- (a) public facilities such as schools and sports facilities;
- (b) security features such as perimeter walls and street lighting;
- (c) open public spaces e.g. parks and sitting spaces;
- (d) convenience and safety for pedestrians and users of public transport; and
- (e) access to provisions for children, the disabled and the elderly.

#### **Social and Economic Renewal**

32 Apart from physical redevelopment, the renewal programs shall strive to offer social and economic regeneration to the old estates. The overall aim of economic and social renewal will be to improve the living conditions of residents of the estates. The specific aims will be to (*inter alia*):

- (a) correct management or maintenance deficits;
- (b) change the residents' experience of living in the old estates;
- (c) create attractive and safe environments for the residents;
- (d) create employment in construction and management positions;
- (e) provide work spaces in the old estates; and
- (f) support small businesses in the old estates.

#### **Preservation of Heritage**

33 The NCCG and stakeholders involved in the renewal projects shall aim to preserve buildings, structures and sites of cultural, historical or architectural importance. The preserved buildings, structures and sites shall be put to public or beneficial use. Put differently, the preserved structures shall form a functional part of the old estates as opposed to being mere historical structures or artefacts.

## CHAPTER 5: IMPLEMENTATION STRATEGY

### Scoping

- 1 Scoping refers to the process during which decision makers conduct a strategic assessment to identify and promote renewal for the target residential estate.
- 2 Through scoping the NCCG shall develop a road map to make difficult choices about the future of the old estates. The process will help the NCCG and the relevant stakeholders make strategic decisions about the direction they want the residences earmarked for renewal to pursue.
- 3 To conduct a robust scoping, the NCCG shall:
  - (a) analyse the prevailing social, economic and physical characteristics of target estates;
  - (b) generate the vision of the renewal project; and
  - (c) identify the opportunities for change and the renewal intervention required for each target estate.

### Planning

- 4 A comprehensive plan will be developed to direct the renewal projects. The plan shall have three main components, namely: framework plan, master plan and institutional arrangements.

#### *Framework Plan*

- 5 The framework plan will articulate the vision for renewal projects pursuant to the results and findings of the scoping stage. Through the framework plan, the NCCG shall:
  - (a) highlight the context, rationale and importance of renewal projects to the city and the country at large;
  - (b) address the interrelationships among the social, economic, institutional and physical dimensions of the renewal program;
  - (c) explicate the goals, and principles that will guide the renewal project.
- 6 The planning process shall be:
  - (a) objective, clear and inclusive;

- (b) clearly define the roles of the NCCG, the private sector and stakeholders; and
- (c) establish mechanisms through which the public, private, and community sectors will interact in the development and implementation of the renewal project.

#### *Master Plan*

- 7 The NCCG shall develop a master plan providing a conceptual layout of the old estates to guide future growth and development. The master plan shall include proposals, recommendations, and analyses an estate's economy, population, housing, infrastructure, and land use. The master plan shall strive to cover the following elements:
  - (a) the image, character and neighbourhood of each estate;
  - (b) permitted land uses in each estate;
  - (c) open spaces; and
  - (d) transport systems.

#### *Institutional Arrangements*

- 8 Given the complicated nature of renewal projects, delineation of private and public roles will be required to differentiate between development of land and development of buildings.
- 9 The NCCG may, for any one or more of the renewal projects, assume the role of delivering land and public infrastructure (such as public parks and transportation improvements), leaving the private sector to deliver the buildings.
- 10 The NCCG may consider the following institutional arrangements in delivering the residential renewal projects:
  - (a) creation of a development corporation to manage the renewal project and handover;
  - (b) creation of a public-private board. Since the NCCG will be an equity partner as the contributor of land, it will be responsible for the performance and handover of the renewal project;

- (c) creation of contract management advisory board. Here, the renewal project will be managed largely through contract performance pursuant to the respective differing roles of the public and private sectors; and
- (d) creation of a steering committee to bring together the diverse interests engaged in the renewal project and galvanizing external resources.

### **Financing**

- 11 Urban renewal projects are complex and hard to finance. They require a competent local government that can put in place all the pieces that such a multi-sectoral and multi-stakeholder project requires. The renewal projects also demand institutional structures conducive to long-term processes that can sustain initiatives for lengthy periods of time regardless of bureaucratic reassignments or political changes.
- 12 Given that the primary focus of the renewal will be construction of new housing units, budgetary funding is likely to be challenging. Accordingly, the NCCG shall explore creative ways of financing the urban renewal projects.
- 13 Partnerships of the NCCG with the private sector shall be necessary not only to share the costs of the urban renewal but also risks and technical capacities. According to the World Bank, private sector participation is a key component of regenerating decayed urban areas.
- 14 The NCCG, shall, therefore implement a combination of internal and external funding sources, policy and regulatory tools, and strategic partnerships with the private sector, to finance the renewal projects envisioned under this policy.

### ***Establishment of a Public Corporation***

- 15 The NCCG may establish an autonomous public corporation to implement and finance the urban renewal projects. Where appropriate, the NCCG shall establish separate corporations for each renewal project.
- 16 The corporations shall issue shares to attract private, national and foreign funds to be used in financing the renewal projects.
- 17 Further, the corporations shall have diverse boards of directors comprising private sector members and representatives of the NCCG.

### *Bond Financing*

- 18 In this instance, the NCCG shall issue municipal bonds backed by a percentage of projected future revenue collections, property values or new business activity within the old estates. The bond proceeds will be used to finance the present-day developments and improvements.
- 19 Since municipal bonds are a form of borrowing, the NCCG shall not issue municipal bonds unless (Article 212 of the Constitution):
- (a) the national government guarantees the debt; and
  - (b) the Nairobi City County Assembly approves the issuance of the municipal bonds.

### *Equity Contribution of Land*

- 20 The NCCG will acquire land for renewal projects and use it as equity contribution towards joint ventures with private developers. The NCCG will invest the value of the land and private sector partners will invest the cash for construction.

### *Commercial Borrowing*

- 21 The NCCG may also consider funding from private sector lenders; export credit agencies; or bilateral and multilateral finance organizations. However, similar to municipal bond borrowing, the NCCG will have to get the loan guaranteed by the national government and the borrowing approved by the County Assembly.

### **Public-private partnerships**

- 22 A public-private partnership (PPP) is an institutionalised form of cooperation between government and private partners in a project with common interests via a distribution of decision rights, costs and risks. The NCCG shall use suitable forms of PPPs and joint ventures as the preferred model for ensuring renewal of the old estates.
- 23 Under the PPP frameworks, the NCCG will:
- (a) earmark the old estates eligible for renewal;
  - (b) procure the land to be redeveloped;
  - (c) be actively involved in planning for the renewal projects;

(d) direct the renewal projects.

24 The public private partnership and joint venture agreements for the renewal projects shall:

- (a) contain flexibility clauses to enable adaptation to new circumstances;
- (b) contain strong, measurable and enforceable output obligations; and
- (c) reasonably balance the sharing of risk between the NCCG and private investors.

25 To protect the public interest in the PPP renewal projects, the NCCG shall:

- (a) exercise public control of the renewal projects;
- (b) control public safety of the renewal projects;
- (c) minimize public risk in the renewal project while maximizing public control.

#### **Implementation**

26 To ensure the successful implementation of the renewal plans, the NCCG shall:

- (a) provide the necessary political leadership required to see the renewal project to completion;
- (b) sell the vision of the renewal project to the local residents;
- (c) build residents' support of the renewal projects;
- (d) leverage public and private capital required for up-front investment in the renewal projects; and
- (e) map out the life-cycle of the renewal, including the expected date of handover.

## CHAPTER 6: ISSUES SURROUNDING RENEWAL

### Public Participation

- 1 Community participation in the planning of the renewal projects will be fundamental for the projects' success and sustainability. First, participation will enable the public express its democratic right to be involved in public policy decisions. Second, participation will allow the community (i.e. residents of Nairobi County) to express its needs and aspirations, which will be fed into the policy-making, delivery, and monitoring process. Third, participation will allow for greater efficiencies throughout the project delivery process.
- 2 Community participation can have practical implications for urban renewal projects. First, the residents will get to add valuable content and information based on their local knowledge and personal experiences of living in the old estates. This way, public participation, if done effectively, can significantly improve the outcome of a renewal project.
- 3 Second, participation is a positive way of channelling public interest that may otherwise manifest in uninformed opposition and protest. Participation in the planning and design of the renewal projects will give the residents the opportunity to influence decisions that will affect their daily lives.
- 4 Lastly, involvement of the community in the design and creation of the plan will result in them owning the renewal projects and supporting the results thereof.
- 5 To achieve successful community participation, the NCCG and the relevant stakeholders shall:
  - (a) plan community workshops and sessions in the estates targeted for renewal;
  - (b) share plans and implementation strategies of the urban renewal projects with residents' representatives;
  - (c) engage residents in the renewal process;
  - (d) adopt a holistic renewal strategy that incorporates the physical, social and economic facets of the old estates; and

- (e) adopt a long-term vision focusing on renewal, safety and quality of the old estates.

### **Decanting**

- 6 Renewal projects often involve extensive construction works which render it impossible for the residents to remain in occupation. Where this happens, affected residents will have to be relocated. In implementing the urban renewal projects, the NCCG shall avoid displacement of household units as far as is practical.
- 7 Where the NCCG deems it necessary to relocate residents of an estate to be redeveloped, the NCCG shall establish a decanting site to house the relocated residents.
- 8 The decanting site shall operate as a temporary holding ground for the relocated residents as the estate undergoes redevelopment. To achieve this, the NCCG may enter into a Memorandum of Understanding (MoU) with the residents of the target estates. Such MoU will bind the residents to (*inter alia*):
  - (a) move to the decanting site or any other alternative place sourced from them;
  - (b) move back to the redeveloped estates on tenant purchase or rental schemes once the redevelopment is complete;
  - (c) seek alternative dispute resolution measures in the event of disagreements between the parties;
- 9 In making the decision of whether to displace the residents of a particular household or estate, the NCCG shall conduct a cost-benefit and risk-benefit analyses. Displacement shall only be resorted to where the benefits of a renewal project outweigh costs and inconvenience suffered by residents.
- 10 To address potential issues that may arise from decanting, the NCCG shall:
  - (a) plan in advance of the demolition phase of the renewal project, to meet the housing needs of the displaced residents;
  - (b) develop a decanting policy to govern, in a fair and timely manner, the relocation of affected tenants and landlords;
  - (c) implement feasible methods for the temporary relocation of displaced tenants;

- (d) ensure that there are, or are being provided, in the renewal area or in areas close to the renewal area, enough housing units to accommodate the displaced tenants; and
- (e) provide safeguards to ensure that urban renewal programs do not result in acquisition appropriation of private property without fair compensation.

#### **House Allocation**

- 11 The NCCG shall, as far as practical, ensure that all residents relocated from the old estates for redevelopment become beneficiaries of the redeveloped housing units. The NCCG may require such relocated residents to formally apply for the new houses by a certain date.
- 12 The NCCG shall establish a steering committee to oversee the various aspects of the allocation and re-settlement of the relocated residents. Specifically, the steering committee shall vet, allocate and resolve grievances emanating from the allocation of the redeveloped housing units.
- 13 The Steering Committee shall develop a house allocation criteria to identify the genuine beneficiaries of the redeveloped houses.
- 14 The NCCG shall require all applicants to attend a physical verification exercise to confirm their identities.

#### **Land Acquisition**

- 15 The NCCG shall acquire the land and housing units affected through private treaty with the owners thereof. Should it become impossible to do this, the NCCG shall procure the acquisition of the land and affected houses through eminent domain in accordance with the procedure outlined in the Constitution and the Land Acquisition Act. The NCCG shall also encourage landowners to give up land in exchange for equity in PPP projects.

#### **Land Use in Renewed Estates**

- 16 Land use in most of Kenya's urban areas hardly conforms to prevailing zoning and building regulations. Often, there are many illegal extensions and structures. This problem arises from, inter alia, the following factors:

- (a) improper planning e.g. failure to adopt mixed development plans;
- (b) resident's response to insufficient affordable housing units;
- (c) ignorance of the existing planning and zoning regulations;
- (d) poor implementation and enforcement of planning and zoning policies;
- (e) political interference and corruption;
- (f) lack of public participation in planning; and
- (g) laxity in approving development plans thereby constraining developers to proceed with construction without awaiting approval of the plans.

17 To address the issue of illegal extensions in the old estates, the NCCG shall:

- (a) encourage mixed use development based on the economic and social needs of the local community and residents of the old estates;
- (b) prepare and enforce land-use plans and policy guidelines to address development activities that take place within the old estates;
- (c) initiate aggressive publicization of the existing planning and zoning regulations;
- (d) involve residents and local communities in developing urban renewal plans;
- (e) encourage the development of affordable housing to meet the housing deficit;
- (f) in conjunction with the national government, prepare and implement a financial policy that encourages channelling of funds to the housing sector; and
- (g) establish sustainable urban management programs to address the growing needs of the city's population in terms of infrastructure, housing and transportation services.

#### **Maintenance and Management of Redeveloped Housing Units**

18 Lack of proper maintenance and management greatly reduces the quality of the available housing stock. Residents of the old estates lacked the opportunities to self-manage or self-maintain the estates thereby leading to their current decayed states.

19 To address ensure the lifespan of the redeveloped housing units, the NCCG shall:

- (a) consider developing and implementing guidelines on management and maintenance of the city's estates;

- (b) consider formulating standards for minimum maintenance of the housing units;
- (c) implement a procedure requiring all housing units to be re-inspected every 10 years and issuing renewable certificates of occupancy for compliant housing units;
- (d) sensitise and educate the public on the need to maintain the estates clean and in a sanitary condition;
- (e) ensure that pre-construction surveys are carried out to ascertain establish that the soil mechanics of the old estates support the proposed developments;
- (f) enforce the use of permanent, quality construction materials;
- (g) require that all the proposed developments are structurally sound and stable;
- (h) ensure that the renewal projects are only handled by reputable, qualified, certified and registered professionals.

20 To promote the maintenance of residential units pending redevelopment, the NCCG may consider establishing a reimbursement scheme for maintenance costs. The objective of the scheme would be to guarantee the owners of housing units that money spent on maintenance will not be lost even if the housing units are to be redeveloped down the road.

## **CHAPTER 7: DISPUTE RESOLUTION**

- 1 Disputes arising from renewal programs, including PPP arrangements, shall be resolved expeditiously to avoid project disruption. Specifically, renewal programs and projects shall give primacy to expeditious and non-litigious dispute resolution procedures. For avoidance of disputes and expeditious disposal thereof, the agreements comprising the PPP arrangements shall contain:

### **Early Warning Clauses**

- 2 Under these clauses, a party that feels an event or set of events may have the potential of causing a disputes shall bring the said events to the attention of the offending party as soon as practicable.

### **Negotiation Clauses**

- 3 Negotiation provisions will be aimed at assisting the disputing parties into analysing the merits of their claims. To this end, parties shall be free to appoint a facilitator at the commencement of the renewal project.

### **Conciliation and Mediation Clauses**

- 4 The conciliation and mediation provisions shall refer the disputing parties to an independent person or panel of persons for amicable settlement of their dispute.

### **Expert Determination**

- 5 Under these provisions, a dispute arising between the parties under the PPP arrangements will be referred to a neutral third-party expert for appraisal. The expert shall give his opinion on the merits of the dispute and suggest an outcome.
- 6 These provisions may prove useful where parties have adopted inflexible positions on the dispute.

### **Arbitration**

- 7 Disputes surrounding urban renewal projects undertaken pursuant to this policy which cannot be amicably settled through conciliation, negotiation or expert appraisal shall be settled by arbitration.

## **CHAPTER 8: POLICY ENFORCEMENT AND IMPLEMENTATION**

### **Policy implementation**

- 8 The NCCG shall, in consultation with relevant state agencies and development partners, establish a framework for the implementation of this Policy. In addition, the implementation framework will provide for mechanisms and capacity building mechanisms for financing the implementation of this Policy.

### **Policy Enforcement**

- 9 This policy will form the basis for and be recognized as the overarching guide to all urban renewal or related redevelopment activities regarding the old estates. In order to instil good practices in the renewal of the city's old estates, there will be a need to establish integrated enforcement measures and protect this Policy from political and/or other interference.

## CHAPTER 9: THE PREVAILING REGULATORY FRAMEWORKS

- 1 The prevailing laws and policies, at both national and county government levels, offer many opportunities that the NCCG can creatively harness to guarantee the provision of decent, adequate and affordable housing in the city. The ensuing sections of this chapter outline the opportunities available under the current regulatory frameworks, and the strategies that the NCCG can creatively employ to harness those opportunities to ensure the sustainable renewal and regeneration of the old estates.

### The Constitutional Framework

- 2 The Constitution provides for a devolved system of government. The Fourth Schedule to the Constitution (hereinafter, "**the Fourth Schedule**") delineates the functions, powers and responsibilities of each level of government. Some state functions, however, are 'shared' and hence within the concurrent mandate of both national and county governments.
- 3 Article 6 (2) of the Constitution provides that the national and county levels of government shall be *distinct and inter-dependent*. Each level of government, the Constitution states, must discharge its specific and shared functions on the basis of *consultation and cooperation* with the other level of government. Further, Article 189 (1) (a) of the Constitution requires each level of government to discharge its functions and exercise its powers in a manner that respects the functional and institutional integrity of the other.
- 4 Generally, the national government is responsible for formulating *housing policies*. County governments, on the other hand, are generally responsible for county planning and development, *including housing*. The provision of decent and affordable housing, and related social amenities, therefore, generally falls within the sphere of shared responsibilities of national and county governments.
- 5 The Constitution guarantees every citizen certain minimum standards of housing and social amenities. Article 43 (1) (b) of the Constitution, for instance, provides that every person has the right to (*inter alia*):

- (a) accessible and adequate housing;

(b) reasonable standards of sanitation; and clean and safe water in adequate quantities.

- 6 Due to dilapidation and overcrowding, among other factors, the old estates fall far below the standards of housing and social amenities envisioned by the Constitution. The formulation of this policy is part of the NCCG's efforts to discharge its constitutional mandate of providing decent and affordable housing, and related social amenities, to the city's residents.
- 7 Article 2 of the Constitution provides (*inter alia*) that the general rules of international law and treaties and conventions ratified by Kenya shall form part of the law of Kenya. Kenya has ratified various treaties and international legal instruments that provide for the right to decent and affordable housing for all citizens. They include:
- (a) the Universal Declaration of Human Rights (see Article 25); and
  - (b) the International Covenant on Economic, Social and Cultural Rights (see Article 11).

- 8 As is evident from the foregoing, the renewal and regeneration of the old estates falls within the constitutional mandate of the NCCG.

#### **Statutory and Policy Frameworks**

##### ***The Housing Act***

- 9 The Housing Act provides for the giving of loans and grants, of public funds, for the construction of residential buildings. It tasks the National Housing Corporation with the mandate of implementing the national government's housing programs and policies.
- 10 The Housing Act permits the National Housing Corporation to give loans and grants to local authorities [and presumably county governments] for purposes of constructing residential houses (see e.g. section 7). Accordingly, the NCCG may apply for loans or grants from the National Housing Corporation for the purposes of redeveloping the old estates.

##### ***The County Governments Act and the Urban Areas and Cities Act***

- 11 The County Governments Act and the Urban Areas and Cities Act are arguably the core legislation that give effect to the devolution chapter of the Constitution. In summary, the

NCCG Act elaborates the provisions of the Constitution relating to the powers, functions and responsibilities of county governments. The Urban Areas and Cities Act, on the other hand, seeks to establish a regulatory framework for: (i) the classification, governance and management of urban areas and cities; (ii) the establishment of urban areas and cities; and (iii) the participation of residents of urban areas in matters concerning them.

- 12 Under section 5 of the Urban Areas and Cities Act, the NCCG may enter into an agreement with the national government regarding funding the renewal projects envisioned under this policy.
- 13 Both the County Governments Act and the Urban Areas and Cities Act provide for development planning and control within counties, cities, municipalities and urban areas. The relevant provisions of the County Governments Act are to be found in (*inter alia*) sections 37 and 102-115. The relevant provisions of the Urban Areas and Cities Act, on the other hand, are to be found in (*inter alia*) sections 20 and 36-42.
- 14 Section 11 of the County Governments Act states that development plans for cities and municipalities must provide for:
  - (a) functions and principles of land use and building plans;
  - (b) location of various types of infrastructure within the city or municipality; and
  - (c) development control in the city or municipality within the national housing and building code framework.
- 15 Section 6 of the Urban Areas and Cities Act envisions 'an agreement [between the national government and the NCCG] regarding the performance of functions and delivery of services by the capital city.' The agreement envisioned by section 6 of the Urban Areas and Cities Act may provide for, *inter alia*:
  - (a) the funding of the operations and activities of the capital city; and
  - (b) joint projects to be undertaken by both the national government and the NCCG in the capital city.
- 16 Section 33 of the Urban Areas and Cities Act provides for partnerships and joint ventures between county governments and private utility companies to provide social

infrastructural services. The partnerships and joint ventures agreements envisioned by section 33 of the Urban Areas and Cities Act must conform to the regulatory frameworks set out in the country's public procurement laws, which include article 227 of the Constitution, the Public Procurement and Asset Disposal Act, 2015 and the Public Private Partnerships Act, 2013.

17 Sections 36-40 of the Urban Areas and Cities Act provide for integrated development planning within cities, municipalities and urban areas. The integrated development plans must provide for (*inter alia*):

- (a) identification of communities which do not have access to basic services;
- (b) an assessment of the existing level of development in a city or urban area, including an identification of communities which do not have access to basic services;
- (c) affirmative action measures to be applied for inclusion of communities which do not have access to basic services to access funds from the equalization funds; and
- (d) a spatial development framework, including basic guidelines for land use management system.

18 As is evident from the foregoing, the County Governments Act and Urban Areas and Cities Act permits many strategies that can be used to ensure the continuous renewal and regeneration of the old estates.

#### *The Physical Planning Act*

19 The Physical Planning Act provides for preparation and implementation of physical development plans in the country. The Act provides the NCCG with many tools to initiate and implement renewal of the old estates. Specifically, under the Act, the NCCG has the power to (*inter alia*):

- (a) control the use and development of land and buildings in the interests of proper and orderly development in the county of Nairobi;
- (b) consider and approve all development applications and grant all development permissions;

- (c) ensure proper execution and implementation of approved physical development plans;
- (d) formulate by-laws to regulate zoning in respect of use and density development; and
- (e) reserve and maintain all land planned for open spaces, parks, urban forests and green belts in accordance with the approved development plans.

#### *The Public Health Act*

20 The core aim of the Public Health Act is to regulate activities likely to injure or put human health at risk. Under the Act, the NCCG is mandated to (see section 116):

- (a) take all lawful, necessary and reasonable practicable measures for maintaining the city of Nairobi in a clean and sanitary condition;
- (b) prevent the occurrence, in the city of Nairobi, of any nuisance or condition likely to injure or endanger the health or life of the residents.

21 Given that the old estates are typified by dilapidated and overstretched infrastructure thereby posing a health risk to their inhabitants, the renewal projects envisioned under this policy will be in tandem with obligations bestowed upon the NCCG under the Act.

22 The Act offers an opportunity for collaboration between the NCCG and the health authorities in preventing the endangerment of the health of residents of Nairobi City County due to construction and habitation of unhealthy housing units.

#### *The Building Code*

23 The Local Government (Adoptive By-laws) (Building) Order, 1968 (hereinafter, “**the Building Code**”) provides for (*inter alia*):

- (a) submissions and approval of building plans;
- (b) access of buildings; and
- (c) external passages, siting and space about buildings.

24 Most players in the construction sector believe that the Building Code is outmoded. Consequently, plans are currently underway to replace the Building Code with the European Construction Guidelines (hereinafter, “**Eurocodes**”) by 2021. The adoption of

Eurocodes will significantly reduce the construction costs by allowing the use of innovative locally available construction materials.

- 25 The renewal projects envisioned under this policy will be carried out in conformity with the provisions of the Eurocodes.
- 26 Notwithstanding the foregoing, the NCCG shall ensure that the alternative building material used in the renewal projects shall:
  - (a) have high resistance to fire;
  - (b) be durable;
  - (c) be of high quality.

*The National Housing Policy (Sessional Paper No. 3 of 2004)*

- 27 The core objective of Sessional Paper No. 3 of 2004 (hereinafter, "**National Housing Policy**") is to provide a coherent national policy framework for the provision of adequate and affordable housing to all socio-economic groups in Kenya. The National Housing Policy attributes the problem of housing to widespread poverty and low-incomes.
- 28 The National Housing Policy seeks to (*inter alia*):
  - (a) facilitate the progressive realisation of the right to adequate housing;
  - (b) promote the development of housing that is functional, healthy, aesthetic, and environmentally friendly;
  - (c) improve the quality of existing stock of houses;
  - (d) encourage increased [private] investment in the housing sector;
- 29 The National Housing Policy proposes that the national government facilitates an annual delivery of at least 150,000 houses in urban areas. The Policy recommends for re-planning and re-development of existing housing estates that do not provide for maximum or optimal use of land as a means of increasing the urban housing stock. However, it does not provide for how such re-development should be carried out.
- 30 A key objective of this Urban Renewal Policy is to redevelop the old estates in a way that increases the available housing stock. In this way, the Urban Renewal Policy will have a

direct (positive) impact on the vision of the National Housing Policy, namely the provision of affordable, decent housing to all Kenyan citizens.

31 Under the policy framework of the National Housing Policy, the NCCG has an opportunity to partner with the national government in:

- (a) giving tax incentives such as investment allowances to developers or institutions who invest in low cost development;
- (b) facilitating the procurement and supply of serviced land as an input for the renewal projects; and
- (c) ensuring that legislative and regulatory instruments on land use are regularly reviewed to promote housing development.

*The National Land Use Policy*

32 The Sessional Paper No. 1 of 2017 (hereinafter, "**National Land Use Policy**") seeks to guide the country towards an environmentally friendly and socially responsible use of land for the social and economic transformation of the people of Kenya. The renewal projects envisioned under this Urban Renewal Policy must abide by the policy statements contained in the National Land Use Policy.

33 More specifically, to ensure sustainable urbanization and promote the development of adequate and appropriate shelter for all, the National Land Use Policy requires the NCCG and the national government to (*inter alia*):

- (a) create an enabling environment for urban development through the establishment of transparent, accountable, sustainable, comprehensive and participatory governance structures and decision-making processes;
- (b) harmonize urban plans with the long-term national development plans to ensure synchrony between urban centres and rural areas;
- (c) manage spatial growth of areas in order to generate an economic and social environment for urban development;
- (d) consider the re-conceptualization of zoning and sub-division control, not as exclusionary mechanisms within and across residential areas, but as tools for creation of integrated viable urban communities sharing common services;
- (e) provide efficient amenities for urban settlements;

- (f) create and protect green and recreational areas within urban centres;
- (g) review building and planning standards with a view to making them user friendly as opposed to being a deterrent to development;
- (h) promote research in appropriate technology in the construction industry with a view of reducing the costs of building materials; and
- (i) create an enabling environment for public-private partnerships, concessions and other appropriate contractual arrangements with private investors in the housing sector.

34 More importantly, the National Land Use Policy requires the NCCG and the national government to:

- (j) *develop urban renewal strategies* and enforce development control;
- (k) promote the use of compact sustainable urban forms (i.e. densification); and
- (l) provide incentives for urban renewal and redevelopment for urban areas.

35 Under the National Land Use Policy, the NCCG has the opportunity to partner with the national government in:

- (a) providing incentives to developers engaged in urban renewal or re-development projects; and
- (b) promoting research in quality, low cost building materials and technologies.

#### *The Kenya Vision 2030*

36 Kenya's long-term blue print for economic, social and political transformation (hereinafter, "**the Vision 2030**") identifies housing as one of the key social pillars of Kenya's transformation into a middle-income country. According to the 2030, the housing sector in Kenya is characterised by (*inter alia*);

- (a) low-level of urban home ownership;
- (b) extensive and inappropriate dwelling units, including slums and squatter settlements;
- (c) an annual requirement of at least 150,000 new housing in urban areas, against an estimated supply of only 35,000; and

(d) an acute shortage of housing for low-income households, especially in urban areas, caused by private sector aversion towards investment in housing for this demographic group.

37 Vision 2030 acknowledges the housing deficit in the country and makes many recommendations to revamp urban housing, including: establishment of a second finance mortgage company; establishment of a national housing fund; enhancement of the development planning capacities of county and municipal governments; devolution of development planning; and promotion of low-cost housing technologies.

38 The urban renewal strategies envisioned under this policy will play a pivotal role in increasing the housing stock in the county of Nairobi as recommended by Vision 2030.

#### *Nairobi Metro 2030*

39 The Nairobi Metro 2030 aims to transform the metropolis of Nairobi into a safe, secure and prosperous world class metropolis by the year 2030. It identifies the provision of shelter as a huge challenge facing the country and projects a housing deficit of over 70% by the year 2030 based on the trends of housing demand and supply as at 2008.

40 Nairobi Metro 2030 recognises the availability of decent housing as a key factor not only in improving the quality of life of the residents of the Nairobi metropolis but also in spurring its economic growth. To this end, it proposes the provision of a living environment characterised by good quality housing, adequate accessible and high quality facilities, and a healthy, safe and lively environment. Further, and perhaps more relevant to the instant Urban Renewal Policy, Nairobi Metro 2030 suggests for the development of comprehensive urban regeneration and renewal plan as a way of improving the living conditions of the residents of the metropolis. The instant policy document embodies the NCCG's plans and strategies of re-developing the old estates in a manner that will improve the quality of life of the residents of the Nairobi metropolis.

#### *The "Big Four" Agenda*

41 On or around 12<sup>th</sup> December 2017, the national government announced an economic transformation plan (dubbed "the Big Four Agenda") aimed at guiding the country's development for the period between 2018 and 2022. The national government aims,

through the Big Four Agenda, to (*inter alia*) provide housing to all Kenyans by targeting construction of at least 500,000 affordable housing units by 2022. This offers many potential areas for partnership between the NCCG and the national government in the renewal and regeneration of the old estates.

## CHAPTER 10: SUMMARY OF RENEWAL POLICIES AND STRATEGIES

- 1 The NCCG shall continually explore and implement creative, effective and sustainable programs to ensure that the housing and social amenities in the old estates meet the minimum safety and human habitation standards envisioned by:
  - (a) the Constitution;
  - (b) relevant international conventions; and
  - (c) relevant national and county policy and regulatory frameworks.
- 2 Specifically, the NCCG shall ensure the continuous renewal and regeneration of the old estates by, *inter alia*:
  - (a) ensure that its integrated development plans adequately and sustainably address the housing, human habitation and social amenities needs of the residents of the old estates;
  - (b) harnessing the financing opportunities available under various national laws, funds, and institutions;
  - (c) seeking grants from the national government;
  - (d) collaborating and partnering with the national government and relevant national government institutions, including-
    - i. the Ministry of Transport, Infrastructure, Housing and National Development;
    - ii. the Ministry of Lands and Physical Planning;
    - iii. the Ministry of Devolution and Arid and Semi-Arid Lands;
    - iv. the National Housing Corporation; and
    - v. the National Environment Management Authority;
  - (e) entering into public-private partnerships, concessions, joint ventures and other appropriate contractual arrangements with donors, utility companies and private investors;
  - (f) ensuring that all contractual arrangements with private investors—
    - i. strictly comply with applicable public procurement laws and regulations; and
    - ii. embody a fair balance between the public interest and private profit-making.

