

Paper laid  
51 Hon. Jaganyi, NCA  
on 18/11/2021

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-FIFTH SESSION

NBI CA. PLC. 2021

18<sup>th</sup> November, 2021

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Thursday day 18<sup>th</sup> November, 2021.

THE REPORT OF THE SECTORAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON THE INQUIRY INTO ALL PENDING BILLS ARISING FROM CASES HANDLED BY ALL THE PREQUALIFIED FIRMS THAT HAVE FINANCIAL IMPLICATIONS ON THE COUNTY SINCE 2017 TO DATE.

(Chairperson, Sectoral Committee on Justice and Legal Affairs)

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



**NAIROBI CITY COUNTY ASSEMBLY**



**SECOND ASSEMBLY - FIFTH SESSION**

**SIXTH REPORT OF THE SECTORAL  
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS  
ON**

**THE INQUIRY INTO ALL PENDING BILLS ARISING FROM CASES  
HANDLED BY ALL THE PREQUALIFIED FIRMS THAT HAVE FINANCIAL  
IMPLICATIONS ON THE COUNTY SINCE 2017 TO DATE**

**Clerk's Chamber  
City Hall  
Nairobi**

**November, 2021**

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## 1. PREFACE

The Sectoral Committee on Justice and Legal Affairs is established under Standing Order 203, and its mandate amongst others, as outlined under Standing Order 203 (5) 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 programmes 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 analyze 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.*

The Committee is mandated under the 3rd Schedule of the Standing Orders to “investigate, inquire into and report on all matters related to constitutional affairs, the administration of law and justice, integrity and anti-corruption and human rights; city inspectorate and enforcement.”

### 1.1. Committee Membership

The Committee comprises the following Members: -

1. Hon. Joseph Komu, MCA- Chairperson
2. Hon. Francis Ngesa, MCA- Vice Chairperson
3. Hon. Cecilia Ayot, MCA
4. Hon. Asli Mohamed, MCA
5. Hon. David Ayo, MCA
6. Hon. Doris Kanario, MCA
7. Hon. Elijah Mputhia, MCA
8. Hon. Millicent Jagero, MCA
9. Hon. Jairus Omay, MCA
10. Hon. Antony Kimemia, MCA
11. Hon. Esther Nyangweso, MCA
12. Hon. John Kyalo, MCA
13. Hon. Maina Njoka, MCA
14. Hon. Margaret Mbote, MCA
15. Hon. Millicent Mugadi, MCA
16. Hon. Moses Ogeto, MCA
17. Hon. Muchene Kabiru, MCA
18. Hon. Caroline Mayunzu, MCA
19. Hon. Mwangi Njihia, MCA

20. Hon. Kennedy Obuya, MCA
21. Hon. Millicent Okatch, MCA
22. Hon. Laura Mwendu, MCA
23. Hon. Mary Njambi, MCA
24. Hon. Osman Khalif, MCA
25. Hon. Patrick Logedi, MCA

## 1.2. Background to the Inquiry

Mr. Speaker Sir,

On 27<sup>th</sup> June, 2018, Hon. Peter Warutere, MCA, Member for Roysambu Ward, rose on the floor of the Assembly pursuant to Standing Order 45(2)(c) and requested for a statement from the Chairperson of Justice and Legal Affairs *regarding the number of cases the County Government has had and sums paid to external legal counsels over the last six years.*

In the Statement, he noted that it is common knowledge that the County Government of Nairobi as the defunct City Council of Nairobi had been a cash cow for unscrupulous lawyers who colluded with staff to levy exorbitant fees for matters involving the County Government of Nairobi or the defunct City Council of Nairobi.

That the result of the foregoing had been mounting legal debts, famously demonstrated by Munikah and Company Advocates' claims in a 2013 suit that the County Government had failed to settle Kshs 573 million legal fees owed to it.

That the Chairperson should inquire into and report on:

- i. The cases the County Government has held over the past four years;
- ii. The law firms contracted to handle the cases over the last four years;
- iii. Status of all cases regarding the County Government; and
- iv. Total sum paid to each law firm or due and payable to the law firms currently contracted by the County Government to handle those cases.

Mr. Speaker Sir,

Concurrently, on 7<sup>th</sup> August 2019, Hon. David Mberia, MCA, Member for Karen Ward, rose on the floor of the Assembly pursuant to Standing Order 45(2) (c) and requested for a statement from the Chairperson of Justice and Legal Affairs *regarding the status of all cases in the County.*

In the statement, he noted that the County Governments Act, 2012 under Section 8(1) (c) gives the County Assembly the mandate to approve the budget and expenditures of the County Government. In this regards, Article 185 (3) requires County Assembly to oversight utilization of the budget. Accordingly, the County Assembly had passed a budget to cater for pending bills including payment of law firms that have represented the County Government in legal cases in the County.

For this reason, the County Government had been put to account regarding expenditure on legal representation.



That the Chairperson should inquire into the number of litigations the County Government had involved in, in the last Financial year;

- i) The number of cases the County Government won and lost in the past financial year;
- ii) Current status of all cases involving the County in the last Financial year;
- iii) Total sum paid to each law firm or due for payments to the law firms currently contracted by the County Government to handle the said cases for the last financial year.

**Mr. Speaker Sir,**

Further, on 27<sup>th</sup> October, 2021, the Hon. Ann Kananu, the Ag. Governor, Nairobi City County received a letter from the Clerk to the Senate REF. SEN/SCDIR/CORR/2021/31 on a request for a statement by the Senate Standing Committee on Devolution and Intergovernmental resources regarding *the alleged illegal payment of legal fees to outsourced law firms by the Nairobi City County Government.*

It noted that Standing Order 48(1) of the Senate Standing Orders provides that a Senator may request for a statement from a Committee on any matter under the mandate of the Committee that is of countrywide, inter-county, national, regional, or international concern on a matter of general topical concern.

That pursuant to this provision, at the sitting of the Senate held on 13<sup>th</sup> July 2021, Sen. Millicent Omanga requested for a statement dated 13<sup>th</sup> May, 2021 from the Standing Committee on Devolution and Intergovernmental relations regarding the alleged illegal payment of legal fees to out-sourced law firms by the Nairobi City County Government.

In the statement, the Senator sought the following;

- i. An outline of the reason of paying law firms a total of ksh 795.9 million out of the county's allocation of ksh. 2.5 billion meant for the clearance of all pending bills in FY 2018/19;
- ii. A statement on whether documentary evidence was availed by the law firms to support the payments made by Nairobi City County; and
- iii. A statement on progress made by the Ethics and Anti-Corruption Commission on investigation on legal fees paid to lawyers for services the Nairobi City County Government during the FY 2018/19.

**Mr. Speaker Sir,**

On Thursday, 13<sup>th</sup> May, 2021 while deliberating on the pending bills and payments made to law firms representing the County in Legal cases, the Committee resolved to merge the two statements by Hon. Peter Warutere and Hon. David Mberia and the statement by Hon. Millicent Omanga regarding the legal cases in the County. The Committee embarked on the conduct of an inquiry on all pending bills arising from cases handled by all the prequalified firms that had financial implications on the County since year 2017.

In further considering the statements, the Sectoral Committee on Justice and Legal Affairs at its sitting of Friday 22<sup>nd</sup> October, 2021, resolved that the responses provided should include, namely;

- i. Breakdown of Payment made in the FY 2018/19. FY 2019/20, FY 2020/21; and

- ii. Include a tabulation of the following information:
  - a) Name of the law firm paid;
  - b) Date of payment;
  - c) Services rendered by the law firm; and
  - d) Total amount paid to the Law firms.

The Committee resolved to meet the County Attorney, the Chief Officer for Finance and Economic Planning, Director of Legal Services, the County Solicitor and the County Secretary.

Mr. Speaker Sir,

On Wednesday 26<sup>th</sup> May, 2021, the Committee met all the parties other than the County Attorney, the Chief Officer for Finance and Economic Planning, the County Secretary, who did not turn-up on the day they were invited and instead sent an apology. Secondly, the County Solicitor submitted supporting documents in response to the status of pending Bills since year 2017 to date.

### 1.3. Acknowledgement

Mr. Speaker Sir,

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

It is my honor and pleasure on behalf of the Committee to present this Report of the Committee on Justice and Legal Affairs on the inquiry into the status of pending Bills and payments made to law firms representing the County in Legal cases since year 2017 to date with Recommendations to the Assembly for consideration and adoption pursuant to the provisions of Standing Orders No. 215(1) and (2).

Thank You.

SIGNED.....

Hon. Joseph Komu, MCA  
(Chairman)

DATE: 18.11.2021



## 2. INTRODUCTION

Mr. Speaker sir,

This inquiry is the result of the merging of three Statements regarding the payment of legal fees and decretal sums by the County Executive from the years 2017 to date. On Thursday, 13<sup>th</sup> May, 2021 while deliberating on the pending bills and payments made to law firms representing the County in Legal cases since year 2017 to date, the Sectoral Committee on Justice and Legal Affairs resolved to conduct an inquiry on all pending bills and decretal amounts arising from cases handled by all the prequalified firms that have financial implications on the County.

The Committee wrote to the County Attorney to provide a list of the following:

- i) The number of litigations the Nairobi County Government has been involved in the Financial year 2017/18, 2018/19, 2019/2020 and 2020/21;
- ii) The number of cases won and lost by the County Government over the last one financial year (provide a list of lost cases);
- iii) The status of pending bills in the Financial year 2017/18, 2018/19, 2019/2020 and 2020/21;
- iv) The list of all prequalified lawyers in the County;
- v) The current status of all cases involving the County Government for the Financial year 2017/18, 2018/19, 2019/2020 and 2020/21; and
- vi) The total sums paid to each law firm or due for payment to the Law Firms contracted by the County Government to handle the said cases for the financial year 2019/2020 and 2020/21. (Provide a list of amounts due to law firms not paid and copies of notes to support the said payments).

These documents and oral and or written submissions formed the basis of this Report.

### 2.1. Legal Framework for Legal Fees

Section 45 of the Advocates Act provides for agreements with respect to remuneration where an advocate and his client may before, after or in course of any contentious business, make an agreement fixing the amount of the Advocate's remuneration in respect thereof.

Schedule 5 of the Advocate remuneration order, 2014 provides that an advocate may charge his fees at such hourly rates as maybe agreed with his client from time to time. The agreement is guided by the principle that instruction fees is a static item that is charged once only and it is not affected by the stage the suit has reached.

Advocate fees is based on the scales contained in the Advocates Remuneration Order which is a delegated legislation pursuant to the Advocates Cap 16 Laws of Kenya. Rule 2 of the order provides that an Advocate shall not accept fees below what is provided under the Law. That it's an offence and professional misconduct for an Advocate to charge or accept fees below the scale as stipulated.

That the scale in schedule 6 and 7 is based on the value of the subject matter. Schedule 6 applies to matters before superior courts (High Court & Court of Appeal) while fee in the Magistrate's Court cases are provided for under schedule 7. The advocate remuneration order provides that the value of the subject matter can be determined from the pleadings (plaint, defense, application, replying

affidavit, petition, originating summons, judgement) or settlement between the parties which includes consent and alternative dispute resolutions mechanism. The value can therefore be dependent on an actual valuation report or on approximate value indicated in court documents.

That the fees prescribed in the Advocates(remuneration) order are minimum scale fees, not a cap. The remuneration order also allows fees to be based on agreement between the advocate and the client.

### 3. SUBMISSIONS BY WITNESSES

#### 3.1 Appearance and Submissions by the Director, Legal Affairs, and the County Solicitor

On Wednesday 26<sup>th</sup> May, 2021, the Committee met the Director Legal Affairs and the County Solicitor to shed light on the status of pending bills.

The Director Legal Affairs stated as follows, that:

- i. The Advocates Remuneration Order is a document which sets out the scale of professional legal fees to be charged by advocates, providing for a minimum scale of fees for all categories of practitioners which are based on the nature of the transaction.
- ii. The Order was recently amended through Legal Notice No. 35 dated April 11, 2014.
- iii. That Advocate fees is based on the scales contained in the Advocates Remuneration Order which is a delegated legislation pursuant to the Advocates Cap 16 Laws of Kenya.
- iv. Rule 2 of the order provides that an Advocate shall not accept fees below what is provided under the Law.
- v. That It's an offence and professional misconduct for an Advocate to charge or accept fees below the scale as stipulated.
- vi. That the scale in schedule 6 and 7 is based on the value of the subject matter. Schedule 6 applies to matters before superior courts (High Court & Court of Appeal) while fee in the Magistrate's Court cases are provided for under schedule 7.
- vii. The advocate remuneration order provides that the value of the subject matter can be determined from the pleadings (plaint, defense, application, replying affidavit, petition, originating summons, judgement) or settlement between the parties which includes consent and alternative dispute resolutions mechanism.
- viii. The value can therefore be dependent on an actual valuation report or on approximate value indicated in court documents.
- ix. That apart from the value of the subject matter, the other factors to be considered include the nature and importance of the cause or matter, the interest of the parties, the general conduct of the proceedings, the complexity of the matter and the time expended by the advocate.
- x. That the courts also held that calculating Advocate-client fees is not a mathematical exercise to come up with accurate amounts. As was held in the case of Joreth Ltd vs Kigano & Associates Advocates (Civil Appeal No 66 of 1999).



- xi. That the fees prescribed in the Advocates(remuneration) order are minimum scale fees, not a cap. The remuneration order also allows fees to be based on agreement between the advocate and the client.
- xii. That the relationship between the Legal Department and the external legal service providers is an advocate-client relationship.
- xiii. The advocate charge fees in accordance with the law. It was a tradition that they send the Department fee notes which the legal officers verify.
- xiv. That the Department gives their counter proposal which if accepted by the advocates becomes the agreed fees.
- xv. Where the advocate rejects the proposal, the same can be determined by the courts on taxation of bills of cost or court assessment in other cases.

### 3.2 Submissions by the County Solicitor

The County Solicitor submitted supporting documents in response to the status of financial obligations for the financial year 2017/18, 2018/19, 2019/2020 and 2020/21 and information on all the decretal amounts arising from cases handled by all the firms that had financial implications on the County as follows:

1.	ADVOCATE FIRM	TOTAL FINANCIAL OBLIGATION (KSH)	CASES WITH FINANCIAL IMPLICATION (County to pay legal fees +damages)	PREQUALIFIED FIRMS WHICH SENT DOCUMENTS IN SUPPORT OF INVOICES
2.	Abdullahi Gitari Odhiambo & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
3.	Achoki & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
4.	Amadi & Amadi Advocates	45,411,284.43	Has Financial implication	Sent Documents supporting invoices
5.	Anne Munene & Company Advocates	21,147,951.00	Has Financial implication	Sent Documents supporting invoices
6.	Arati & Co. Advocates	14,975,175.37	Has Financial implication	Sent Documents supporting invoices
7.	Ario& Co. Advocates	4,650,000.00	Has Financial implication	Sent Documents supporting invoices



8.	Ataka Kimori & Okoth & Co. Advocates	13,333,354.92	Has Financial implication	Sent Documents supporting invoices
9.	AKO Advocates LLP	16,622,535.87	Has Financial implication	Sent Documents supporting invoices
10.	C.M. MITEMA & Company Advocates	13,496,728.00	Has Financial implication	Sent Documents supporting invoices
11.	Gituke B Waweru & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
12.	E. A Oyaro & Co. Advocates	111,650,000.00	Has Financial implication	Sent Documents supporting invoices
13.	E. K. Mutua & Co. Advocates	137,143,200.00	Has Financial implication	Sent Documents supporting invoices
14.	E.N. OMOTII & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
15.	Gitau & Kaburu & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
16.	Harrison Kinyanjui & Co. Advocates	20,000,000.00	Has Financial implication	Sent Documents supporting invoices
17.	Irungu Kangata & Co. Advocates	986,000.00	Has Financial implication	Sent Documents supporting invoices
18.	J.O. Magolo & Co. Advocates	101,483,627.16	Has Financial implication	Sent Documents supporting invoices
19.	J.M Njenga & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
20.	Keengwe & Co Advocates	107,000.00	Has Financial implication	Sent Documents supporting

				invoices
21.	K.K. Macharia & Co Advocates	806,200.00	Has Financial implication	Sent Documents supporting invoices
22.	Wanjiku Maina & Company Advocates	578,798,649.00	Has Financial implication	Sent Documents supporting invoices
23.	Koceyo & Co. Advocates	493,999,340.00	Has Financial implication	Sent Documents supporting invoices
24.	Kandie Mutai Mudeizi & Co. Advocates	530,809,848.42	Has Financial implication	Sent Documents supporting invoices
25.	Kerandi Manduku & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
26.	Kwanga Mboya & Co. Advocates	44,592,200.00	Has Financial implication	Did not send Documents supporting invoices
27.	Kounah & Co Advocates	63,273,447.00	Has Financial implication	Sent Documents supporting invoices
28.	K.N. Nyamweya & Co. Advocates	75,357,200.00	Has Financial implication	Sent Documents supporting invoices
29.	KTk & Co. Advocates	413,000,000.00	Has Financial implication	Sent Documents supporting invoices
30.	Letangule & Company Advocates	61,017,897.00	Has Financial implication	Sent Documents supporting invoices
31.	Makhandia & Makhandia Advocates	3,724,365.48	Has Financial implication	Sent Documents supporting invoices
32.	Maanzo & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices

33.	Masire & Mogusu & Co. Advocates	39,360,510.00	Has Financial implication	Sent Documents supporting invoices
34.	Mereka & Co. Advocates	17,411,600.00	Has Financial implication	Sent Documents supporting invoices
35.	Moraro Onsongo & Co. Advocates	12,606,446.00	Has Financial implication	Sent Documents supporting invoices
36.	Moronge Co. Advocates	65,068,602.00	Has Financial implication	Sent Documents supporting invoices
37.	Mbaluka & Co Advocates	13,254,468.00	Has Financial implication	Sent Documents supporting invoices
38.	Mbugua Atudo & Macharia & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
39.	Muchoki Kangata & Co. Advocates	38,726,433.00	Has Financial implication	Sent Documents supporting invoices
40.	MMA Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
41.	Munyasya & Company Advocates	18,737,818.48	Has Financial implication	Sent Documents supporting invoices
42.	Munene Wambugu & Co. Advocates	5,851,760.00	Has Financial implication	Sent Documents supporting invoices
43.	Miller & Company Advocates	2,298,753,532.72	Has Financial implication	Sent Documents supporting invoices
44.	Morara Onsongo & Co Advocates	56,459,135	Has Financial implication	Sent Documents supporting invoices



45.	Murumi Murango & Associates	85,646,339.05	Has Financial implication	Sent Documents supporting invoices
46.	Murugu Rigoro & Co. Advocates	50,922,807.00	Has Financial implication	Sent Documents supporting invoices
47.	Mwangi Wahome & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
48.	Mwanzia & Ngulu Co.	22,352,500.30	Has Financial implication	Sent Documents supporting invoices
49.	Masire & Mogusu Advocates	417,45,350.92	Has Financial implication	Sent Documents supporting invoices
50.	Mereka & Company Advocates	44,160,413.00	Has Financial implication	Sent Documents supporting invoices
51.	Murimi Murango & Co. Advocates	40,915,600.00	Has Financial implication	Sent Documents supporting invoices
52.	Were & Oonge Advocates	10,039,124.80	Has Financial implication	Sent Documents supporting invoices
53.	Musyoki Mogaka & Co. Advocates	193,798,765.72	Has Financial implication	Sent Documents supporting invoices
54.	SIRMA & Company Associates	31,575,200.00	Has Financial implication	Sent Documents supporting invoices
55.	Meritad Law Africa LLP	45,723,634.00	Has Financial implication	Sent Documents supporting invoices
56.	M.M. & Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
57.	Momanyi & Co.	-	Has no	Did not

	Advocates		Financial implication	send Documents supporting invoices
58.	Mwanzia Ngulu &Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
59.	Nyamberi & Co. Advocates	500,586,372.00	Has Financial implication	Sent Documents supporting invoices
60.	Nyauchi &Co. Advocates	-	Has no Financial implication	Did not send Documents supporting invoices
61.	Njenga Maina& Co. Advocates	4,199,200.00	Has Financial implication	Sent Documents supporting invoices
62.	Sirma & Co. Advocates	40,217,756.00	Has Financial implication	Sent Documents supporting invoices
63.	Ombati Ong'au & Co Advocates	213,216,400.00	Has Financial implication	Sent Documents supporting invoices
64.	Osero & Co. Advocates	203,246,011.20	Has Financial implication	Sent Documents supporting invoices
65.	Ongicho- Ongicho & Co Advocates	29,338,527.00	Has Financial implication	Sent Documents supporting invoices
66.	Prof Tom Ojienda & Co. Advocates	30,000,000.00	Has Financial implication	Sent Documents supporting invoices
67.	Prof. Musili Wambua & Co. Advocates	16,576,912.00	Has Financial implication	Sent Documents supporting invoices
68.	R.M. Wafula & Company Advocates	34,960,699.35	Has Financial implication	Sent Documents supporting invoices

69.				PREQUALIFIED FIRMS WITH NO JOBS / PENDING BILLS
70.	Kitiwa & Partner Advocates	-	-	Prequalified but has not acknowledged to be in the panel
71.	Ngugi Mwangi & Co Advocates	-	-	Prequalified but has not acknowledged to be in the panel
72.	Ngetich Chiira & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
73.	Mwaura & Wachira Advocates	-	-	Prequalified but has not acknowledged to be in the panel
74.	KRK Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
75.	F.W Njoroge & Co Advocates	-	-	Prequalified but has not acknowledged to be in the panel
76.	Wachira & Mumbi Advocates	-	-	Prequalified but has not acknowledged to be in the panel
77.	Mwangi & Kihang'a Advocates	-	-	Prequalified but has



				not acknowledged to be in the panel
78.	Ngaywa & Kibet Partners LLP	-	-	Prequalified but has not acknowledged to be in the panel
79.	M/S Mwititi & Partners Advocates, LLP	-	-	Prequalified but has not acknowledged to be in the panel
80.	Ojiambo & Co Advocates	-	-	Prequalified but has not acknowledged to be in the panel
81.	Jamal Bake & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
82.	Sudi and associates	-	-	Prequalified but has not acknowledged to be in the panel
83.	Adera & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
84.	Otwal & Manwa Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
85.	Sonye J Ondari & Co. Advocates	-	-	Prequalified but has not acknowledged to be in the



				panel
86.	Kimberia & Partners Advocates	-	-	Prequalified but has not acknowledged to be in the panel
87.	Githogori & Harrison Associates Advocates 67145	-	-	Prequalified but has not acknowledged to be in the panel
88.	Mutheu Muthiani & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
89.	Guandaru Thuta & Co. Advocates	-	-	Prequalified but has not acknowledged to be in the panel
90.	Chege Kibathi & Company Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
91.	Odongo, Okal & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
92.	Kaloki Ilias & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
93.	Nyiha Mukoma & Co. Advocates	-	-	Prequalified but has not acknowledged to be in the panel
94.	Githuku & Githuku Co. Advocates	-	-	Prequalified but has

				not acknowledged to be in the panel
95.	Ngeri Omiti & Bush & Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
96.	Oseko & Ouma Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
97.	John & Mugambi Associates	-	-	Prequalified but has not acknowledged to be in the panel
98.	Karagu Wathuta & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
99.	Owiti Otieno & Ragot Advocates	-	-	Prequalified but has not acknowledged to be in the panel
100.	Isinta & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
101.	Rachier & Amollo Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
102.	Nderu, Ngaruni & Kimeru Advocates	-	-	Prequalified but has not acknowledged to be in the panel
103.	Mureka & Company	-	-	Prequali fied bu has not acknowledged to be in the panel
104.	Charles Nyakwana & Co Advocates	-	-	Prequalified but has not

				acknowledged to be in the panel
105.	Eric Mose & Co Advocates	-	-	Prequalified but has not acknowledged to be in the panel
106.	Githigo Kamangu & Associates	-	-	Prequalified but has not acknowledged to be in the panel
107.	Now Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
108.	Hassan Osman & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
109.	Okubasu Munene & Kizungu Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
110.	Mtundu Wallace Advocates	-	-	Prequalified but has not acknowledged to be in the panel
111.	Maura Muthoni Mikhala Faraji & Associates	-	-	Prequalified but has not acknowledged to be in the panel
112.	Ngira Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
113.	Wamuiya Mohammed & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
114.	Manyonge Wanyama & Associates Advocates	-	-	Prequalified but has not acknowledged

				to be in the panel
115.	Sisule & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel
116.	SMS Advocates LLP	-	-	Prequalified but has not acknowledged to be in the panel
117.	Diro Advocates Llp	-	-	Prequalified but has not acknowledged to be in the panel
118.	J. N. Muema & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
119.	Musyoka Shikumo Advocate LLP	-	-	Prequalified but has not acknowledged to be in the panel
120.	Dr. Linda Musumba & Co. Advocates	-	-	Prequalified but has not acknowledged to be in the panel
121.	Wahome & Akedi Advocates	-	-	Prequalified but has not acknowledged to be in the panel
122.	Odiwuor Okelo & Advocates	-	-	Prequalified but has not acknowledged to be in the panel
123.	ROBA & Associates	-	-	Prequalified but has not acknowledged to be in the panel
124.	Titus Makhanu & Advocates	-	-	Prequalified but has not acknowledged to be in the



				panel
125.	Morara Omoke Advocates	-	-	Prequalified but has not acknowledged to be in the panel
126.	Maingi Musyimi & Associates	-	-	Prequalified but has not acknowledged to be in the panel
127.	Amolo & Kibanya Advocates	-	-	Prequalified but has not acknowledged to be in the panel
128.	Nyameta Mogaka & Magiya CO. Advocates	-	-	Prequalified but has not acknowledged to be in the panel
129.	Muiti & Company Advocates	-	-	Prequalified but has not acknowledged to be in the panel
130.	Koki Nthuli & Associates Advocates	-	-	Prequalified but has not acknowledged to be in the panel

Total Pending Bills Ksh. 6,971,837,929.19

#### 4. COMMITTEE FINDINGS

The Committee made the following findings, that: -

- i) There existed two reports on pending bills in the FY 2018/19 (see *Report attached*):
  - a. The Prof. PLO Lumumba led Committee Taskforce report sanctioned by the former Governor Hon. Mike Mbuvi Sonko in 2017 and the Auditor General Taskforce report in the FY 2018/19.
  - b. The Committee noted that the said report was not conclusive as it included only the summary of legal claims on advocate's fees and decretal sums in the FY 2018/19. That part of the payment of pending bills was made in the said financial year 2018/19 and the said paid amount were amounts both drawn from the Auditor General Taskforce and the Governor initiated Lumumba Taskforce who had negotiated with the advocates concerned. The Committee noted that

the report was not conclusive as it did not specify the pending bills for FY 2020 and FY 2021;

ii) That in response to Sen. Millicent Omanga's request for statement, the following was evident: -

**1. Regarding an outline of the reason for paying law firms a total of Ksh 795.9 million out of the county's allocation of Ksh. 2.5 billion meant for the clearance of all pending bills in FY 2018/19: -**

- a. Pending bills; part of the payment made in the said financial year and the said paid amount were amounts both drawn from the Auditor General Taskforce and the Governor initiated Lumumba Taskforce who had negotiated with the advocates concerned;
- b. Taxation cause; The payments were further part of court awards courts and the county had obligation to incur such payments as the payments if not paid attracted interest and the interest is pegged by the Advocates Remuneration order at 14 % p.a;
- c. Legal fees; Advocates Remuneration order in schedule v, vi, and vii guides the County as to what is to be paid to the respective advocates in terms of the works done, volume, of the documents, value of the items/properties involved and importance of the item or issue involved. Thus in the given circumstances, the county was obligated to pay the legal fees involved to avoid, the advocate moving to the Deputy Registrar to tax subject matter/suit against the county;
- d. Warrants of arrest; The County Has been involved in suit that some of them have been passed on from one regime to another and some of the suit, the decree holder have warrants of arrests order against offices of the County Government and most of them were not being enforced by court bailiffs but by police office, hence constituting court legalized harassments, whereby officers entered an office and found that his office had warrants and police were out to arrest him, hence where the county was obligated to pay;
- e. Refunds; The County and the EACC had been pursuing refund of deposit/standard premium paid out by Woodley residents hence the reason for payment of the same upon a matter/suit being determined /parties involved agreeing on a consent duly recorded in court;

**2. On the statement on whether documentary evidence was availed by the law firms to support the payments made by Nairobi City County, they responded that the payment process within the County was guided by the Advocates Remuneration Order commenced upon an Advocate(out sourced) being given instructions and him/her proceeding to File Notice of Appointment/memorandum of appearance , Replying Affidavit, statement of defense and adhering to order II of the Civil Procedure Rules, and thereafter sending his/her fee note invoice to the County Legal Department for verification in accordance with the Advocates Remuneration order. That this was all done and proof of the same was available in terms of invoices and fee notes; and**

**3. On a statement on progress made by the Ethics and Anti-Corruption Commission on investigation on legal fees paid to lawyers for services offered to the Nairobi City County Government during the FY 2018/19,**



they responded that this was completely out of the County realm and EACC could guide or update the Senate Committee on the same matter;

- a) That on 2<sup>nd</sup> February, 2020, the office of the County Attorney received a letter from the firm of Munikah and Company Advocates demanding for payment of pending bills claim No. 88 HCC MISC. NO.247 of 2011 Munikah & Company Advocates vs Nairobi City County Government detailing;

- Decree given on 30<sup>th</sup> October, 2017 and issued at Nairobi on 14<sup>th</sup> November, 2017 by the Deputy Registrar Civil Division of the High Court of Kenya at Nairobi with a penal notice;
- Certificate of order against the government (under order 29, rule 3 of the Civil procedure rules, 2010) issued on 5<sup>th</sup> April, 2018 by the Deputy Registrar above;
- Order of mandamus given on 25<sup>th</sup> February, 2019 and issued on 28<sup>th</sup> February, 2019 by the Deputy registrar above; and
- Letter to the County Government dated 23<sup>rd</sup> September, 2020.

- b) The letter demanded payment of the outstanding indebtedness of the Nairobi County Government to Munikah & Company Advocates due as at 31<sup>st</sup> January, 2021 being ksh 954,449.800/= and worked out as follows:

- |      |   |                       |
|------|---|-----------------------|
| i.   | Decretal sum as at 14.11.2017   | 847,887,435.00        |
| ii.  | Add interest on decretal sum at 14% P.A<br>From 14.11.2017 to 12.7.2019 | <u>189,926,875.00</u> |
| iii. | Amount due and owing as at 12.7.2019                                    | 1037,814,220.00       |
| iv.  | Less payment, on account, made on 12.7.19                               | <u>250,000,000.00</u> |
| v.   | Amount owing and due as at 13.7.2019                                    | 787,814,220.00        |
| vi.  | Add interest on v) above  | <u>171,635,580.00</u> |
| vii. | Amount (balance) owing and due to Munikah                               | 959,449,800.00        |

& Company Advocates as at 31.1.2021 (see schedule 'A' of City Council of Nairobi rates cases handled by Munikah & Company Advocates current position)



## 5.0 COMMITTEE OBSERVATIONS

The Committee made the following observation, that: -

1. The County still outsources for legal services;
2. The Reports by the Prof. PLO Lumumba led Committee Taskforce and the Auditor General Taskforce report in the FY 2018/19 were inconclusive on pending Bills;
3. For Pending bills, part of the payments made in the said financial year and the said paid amount were amounts both drawn from the Auditor General Taskforce and the Governor initiated Lumumba Taskforce who had negotiated with the advocates concerned;
4. For the Taxation cause, the payments were further part of court awards and the county had an obligation to incur such payments as the payments if not paid attracted interest and the interest is pegged by the Advocates Remuneration order at 14 % p.a;
5. For Legal fees, the Advocates Remuneration order in schedule V, VI, and VII guides the County as to what is to be paid to the respective advocates in terms of the works done, volume, of the documents, value of the items/properties involved and importance of the item or issue involved. Thus in the given circumstances, the county was obligated to pay the legal fees involved to avoid, the advocate moving to the Deputy Registrar to tax subject matter/suit against the county;
6. For Warrants of arrest, the County has been involved in suits that some of them have been passed on from one regime to another and some of the suit, the decree holder have warrants of arrests order against offices of the County Government and most of them were not being enforced by court bailiffs but by police office, hence constituting court legalized harassments, whereby officers entered an office and found that his office had warrants and police were out to arrest him, hence where the county was obligated to pay;
7. For Refunds, the County and the EACC had been pursuing refund of deposit/standard premium paid out by Woodley residents hence the reason for payment of the same upon a matter/suit being determined /parties involved agreeing on a consent duly recorded in court.
8. Payments were generally done by law firms pursuant to the Advocates Remuneration Order and the enabling legislation as far as the Office of the County Attorney is concerned.





MINUTES OF THE 60<sup>TH</sup> SITTING OF THE SELECT COMMITTEE ON JUSTICE AND  
LEGAL AFFAIRS HELD ON THURSDAY 18<sup>TH</sup> NOVEMBER, 2021 AT 11.00 AM.

PRESENT:-

1. Hon. Joseph Komu, MCA- Chairperson
2. Hon. Francis Ngesa, MCA- Vice Chairperson
3. Hon. Elijah Mputhia, MCA
4. Hon. Mary Njambo, MCA
5. Hon. Caroline Mayunzu, MCA
6. Hon. Millicent Okatch, MCA
7. Hon. Esther Nyangweso, MCA
8. Hon. Cecilia Ayot, MCA
9. Hon. Muchene Kabiru, MCA
10. Hon. Asli Mohamed, MCA
11. Hon. Millicent Jagero, MCA
12. Hon. Millicent Mugadi, MCA
13. Hon. Mwangi Njihia, MCA
14. Hon. Margaret Mbote, MCA
15. Hon. Jairus Omayo, MCA
16. Hon. Kennedy Obuya, MCA
17. Hon. David Ayoi, MCA
18. Hon. John Kyalo, MCA
19. Hon. Laura Mwende, MCA
20. Hon. Antony Kimemia, MCA
21. Hon. Maina Njoka, MCA
22. Hon. Osman Khalif, MCA
23. Hon. Moses ogeto, MCA
24. Hon. Doris Kanario, MCA

SECRETARIAT:

1. Ms. Cammelyne Anguche – Secretariat

MIN.121/NCCA/JLAC/NOVEMBER/2021 – PRELIMINARIES

The Chairperson called the meeting to order at 11.30 am and opened the meeting with a word of prayer. He then read the agenda of the day which was adopted for discussion as proposed by Hon. Doris Kanario and seconded by Hon. Cecilia Ayot as follows:

AGENDA

1. Prayers
2. Adoption of Agenda



3. Adoption of the report on the inquiry into all the pending bills arising from cases handled by all prequalified firms that have financial implications on the County Since 2017 to date.
4. Any other Business
5. Adjournment

MIN.122/ NCCA/JLAC/NOVEMBER/2021– ADOPTION OF THE REPORT ON THE INQUIRY INTO ALL THE PENDING BILLS ARISING FROM CASES HANDLED BY ALL PREQUALIFIED FIRMS THAT HAVE FINANCIAL IMPLICATIONS ON THE COUNTY SINCE 2017 TO DATE.

The Committee considered and unanimously adopted the report of the Committee on the inquiry into all the pending bills arising from cases handled by all prequalified firms that have financial implications on the County Since 2017 to date after being proposed by Hon. Benson Mwangi and seconded by Hon. Elizabeth Nyambura.

MIN.123/ NCCA/JLAC/NOVEMBER/2021– A.O.B & ADJOURNMENT

The Committee having dispensed the business of the day and the time being twenty minutes past twelve o'clock, the Chairperson adjourned the sitting.

CONFIRMED TO BE TRUE RECORD OF THE PROCEEDINGS

SIGNATURE.....

Hon. Joseph Komu  
(Chairperson)

DATE.....