



MURANG'A COUNTY ASSEMBLY

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DATE: 22ND FEBRUARY, 2016

The Hon. Speaker
Murang'a County Assembly

Thro'

The Clerk
Murang'a County Assembly



• PAPER LAID

Mr. Speaker Sir, I beg to lay the following paper on the table of the Assembly today Tuesday February 23, 2016:-

The Public Participation report of the Land, Housing, Physical Planning and Settlement Committee on, **The Murang'a County Rating Bill, 2015**, held in various Sub-Counties on February 4 and 5 2016,

Thank You,

Sign:

Date: 22/2/2016

Hon. Duncan Mwangi Njuguna

CHAIRPERSON, LAND, HOUSING, PHYSICAL PLANNING AND SETTLEMENT COMMITTEE



COUNTY ASSEMBLY OF MURANG'A

THE SECTORAL COMMITTEE ON LAND, HOUSING,
PHYSICAL PLANNING AND SETTLEMENT

REPORT ON PUBLIC PARTICIPATION ON THE MURANG'A COUNTY RATING BILL, 2015

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Clerks Chambers
Murang'a County Assembly
MURANG'A

February 17, 2016

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1.0 PREFACE

Mr. Speaker sir, the sectoral Committee of Land, Housing, Physical Planning and Settlement, embarked on stakeholders' engagement/public hearings on the Murang'a County Rating Bill, 2015, after it underwent first reading and committed to this Committee.

1.1 Terms of Reference for the Committee

- i. To gather the views of the public pertaining to the Murang'a County Rating Bill, 2015.
- ii. To review proposed amendments to the Bill.
- iii. Report on the findings and recommendations of the Committee's public inquiry

2.0 Committee Mandate

The Departmental Committee on Land, Housing, Physical Planning and Settlement is established pursuant to provisions of Standing Order 195 (5). Under these provisions, the Committee is mandated 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 analyze the relative success of the departments as measured by the results obtained as compared with their 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 Assembly;
- (f) to vet and report on all appointments where the Constitution or any law requires the Assembly to approve, except those under Standing Order 189 (*Committee on Appointments*) ; and
- (g) make reports and recommendations to the Assembly as often as possible, including recommendation of proposed legislation.

The Committee is also mandated to scrutinize the budget of its respective Department as provided under Standing Order No. 211 (3) (4) and (5) which states that:-

(3) Upon being laid before the Assembly, the Estimates shall be deemed to have been committed to each Sectoral Committee without question put, for each such committee to deliberate upon according to their respective mandates.

(4) Each Sectoral Committee shall consider, discuss and review the Estimates according to its mandate and submit its report and recommendations to the Budget and Appropriations Committee within twenty-one days, after being laid before the Assembly.

(5) The Budget and Appropriations Committee shall discuss and review the Estimates and make recommendations to the Assembly, taking into account the recommendations of the Sectoral Committees, the views of the County Executive Committee member responsible for finance and the public.

Under the department of Land, Housing, Physical Planning and Settlement, the Committee oversees the following functions;

1. Land survey and Mapping
2. Boundaries and Fencing
3. Housing and Urban Development
4. Land and Physical Development Disputes
5. Conservation and Protection of Ecologically sensitive areas
6. Exploitation of Land and Its natural resources.

3.0 MEMBERSHIP

The Committee comprises the following Members:-

1. Hon. Duncan Mwangi Njuguna - (Chairman)
2. Hon. Samson Kago Njoroge - (Vice Chair)
3. Hon. David Kabaka Gichuru
4. Hon. Charles Mwaniki
5. Hon. Esther Nyakio Munywoki
6. Hon. Samuel Ndehi Mwangi
7. Hon. Catherine Wairimu Mugo
8. Hon. Charity Wangui Rugu
9. Hon. Lucy Wangechi Njoroge

4.0 ACKNOWLEDGEMENTS

Mr. Speaker, Sir

This public participation report was considered at length by the Committee in a sitting held in the assembly on 18th February, 2016 and the resolution to adopt this Report was reached unanimously by members of the Committee. It is our hope that this Report will guide and inform the House on the public views and proposed amendments to the Murang'a County Rating Bill, 2015.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the County Assembly for the support and services extended to the Members to enable the Committee complete this report. I am grateful for the Members of the Committee as well, for their diligence and commitment in the completion of this task.

On behalf of the Committee, I now have the honour and pleasure to present this Report to House for consideration.

Thank you.

Signed:

Hon. Duncan M. Njuguna

(Chairman)

Dated this;18th.....Day of February,2016

5.0 INTRODUCTION

Mr. Speaker, Sir, the Murang'a County Rating Bill, 2015 was sponsored by Hon. Dduncan Mwangi Njuguna the Chairperson of the County Assembly Departmental Committee on Land, Housing, Physical Planning and Settlement Committee. The overall objective of the Murang'a County Rating Bill 2015, is to provide a legal framework for the rating process by the county government.

The Bill also seeks to promote effective, efficient and transparent administration of imposing rating on land, and ensuring equity and fairness on the rating process. It is also important to note that this Bill has been prepared in accordance with the national standards and policies related to rating. Property rates are a major source of revenue due to the value attached to properties. It is important to note that there is a lot of idle land in Murang'a County which upon taxation, would be put into use as well generate revenue for the County.

6.0 Consultative Meetings

Mr. Speaker Sir, in accordance with Murang'a County Assembly standing order 187, the committee engaged experts on property rating to interpret the technicalities of the Bill, before going to the ground to gather views from the general Public. The committee held meetings with the County Executive Member in charge of Land, Housing and Physical Planning department and officers in her department namely the Principal valuer, and surveyors, Finance and revenue officers from the Finance department.

The Committee has also engaged the legal drafter of the Bill, to elaborate further on each clause. In addition, the committee also held a meeting with representatives from the County Land Management Board to discuss the Bill.

6.1 Outcome of Consultative Meetings

Mr. Speaker, Sir, in a stakeholders meeting held on 15th June, 2015, at La Mada Hotel, Nairobi, it was highlighted that levying of rates cannot be undertaken on property/land that has not been valued, hence the need to first have a legislation on valuation. The valuation register prepared after land is valued is what informs the rates to be levied.

The following recommendations were made;

1. **THAT;** the County Government should adopt the most appropriate and applicable method of rating.
2. **THAT;** the County Assembly should go ahead to pass the rating Bill, but enactment on it should commence after the valuation Bill and a valuation roll are prepared.
3. **THAT;** the public should be notified that, the Murang'a County Rating Act will come into force after the Valuation Bill has been passed.

7.0 INVITATION FOR MEMORANDA

Mr, **Speaker Sir**, the Office of the Clerk, Murang'a County Assembly, invited interested members of the Public to submit memoranda on the Murang'a County Rating Bill, 2015. Advertisement for the same was placed on print media of the **Daily Nation** and **Standard Newspapers** on **28TH January, 2016**.

Letters requesting for memoranda on the Bill, were also strategically dispatched to the following target stakeholders;

1. The County Land Management Board
2. Land Buying Companies
3. Property Developers
4. The Senate and National Parliament Committees on Land
5. The Institute of Surveyors of Kenya
6. All Sub County Administrators
7. The County Commissioner
8. County Executive Committee Member – Finance, IT and Planning.

8.0 PUBLIC HEARINGS

Mr. Speaker, Sir, pursuant to article 196 of the Constitution of Kenya 2012 and section (89) and (115) of the County Governments Act, 2012, public hearings on the County Rating Bill, 2015, was undertaken in the seven sub counties as follows;

	SUB COUNTY	VENUE	TIME
1	Maragua	ACK – Hall	10.00 AM
2	Kangema	Muguru ACK Hall	10.00 AM
3	Kiharu	Mothers Union Hall	10.00 AM
4	Kandara	Kandara Children Home	10.00 AM
5	Gatanga	Gatanga CDF Hall	10.00 AM
6	Kigumo	Kigumo CDF Hall	10.00 AM
7	Kahuro	Kahuro Social Hall	10.00 AM

8.1 PUBLIC VIEWS ON THE MURANG'A COUNTY RATING BILL, 2015

The committee gathered the following views from the public,

1. **THAT;** to avoid discrimination and to comply with the Constitution and Land Laws, **flat rates** should apply across the county for each category of land as is currently.
2. **THAT;** rating methods provided in section 8 offers too many alternatives formulas for rating which is likely to cause confusion to land owners.
3. **THAT;** the rating system should be simple and straight forward to enable rates payers clearly understand what rates are payable to the County.
4. **THAT;** the county Assembly should adopt **one method of rating** that results in the least payment obligation by the 'ratable owner'.
5. **THAT;** there is need to define the term "**Valuer**" in the interpretation.
6. **THAT;** section 16 (i), should elaborate the procedure of placing a legal charge on a ratable property especially in leaseholds. A **court decree** should be issued before preparing a charge to a ratable owner and **consent** from the lessor sought before legally placing a charge.

7. **THAT;** since rates should only be applicable to registered land, as contained in the National Government register, a **comprehensive County register** which includes registered and non-registered ratable land may be maintained with a view to rating them.
8. **THAT;** the term '**public land**' should be defined in accordance with the Constitution 2010, and the Land Act, No.6 of 2012.
9. **THAT;** the term '**community land**' should be defined in accordance with the Constitution of Kenya, 2012 and the Community Land Act, upon enactment by the National Assembly.
10. **THAT;** the due dates for payment of rates as contained in clause (13) should be extended by offering a grace period of 3 months.
11. **THAT;** the content of the Bill is too technical and should be simplified in a language easily understood by all.
12. **THAT;** the Bill should include a clause on how the County Government intends to reclaim all public utility land including markets already grabbed by private developers.

9.0 FINDINGS

The Committees findings were as follows;

1. **THAT;** most land owners prefer application of flat rates for the ratable area.
2. **THAT;** rates applicable should not be oppressive to land owners especially on freeholds.
3. **THAT;** imposition of land rates can only be implemented after preparation of the valuation register which informs the rates to be applied, as well as enactment of the law on spatial planning.

10.0 RECOMMENDATIONS

The Committee therefore recommends the following:

1. **THAT;** the method of rating to be applied by the County Government should be fair and result in the least payment obligation by any ratable owner.
2. **THAT;** the County Executive Member in charge of Land, Housing and Physical Planning should hasten the preparation of valuation register which will inform the rates to be applied.
3. **THAT;** the CEC, Land, Housing and Physical Planning in charge should submit to the assembly for enactment, the Bill on **Spatial Panning and Valuation**, so as to have a complete sequence and framework for rating.
4. **THAT;** in accordance to clause 23, of the Act, the CEC, should formulate regulations for effective application of the Act.

11.0 ANNEXES:

1. Schedule of proposed amendments.
2. Minutes of Public Participation/Stakeholders Meetings.
3. Attendance registers.

12. ADOPTION OF REPORT

The Report of the public participation and proposed amendments on the Murang'a County Rating Bill, 2015 was adopted by the following members.

LAND, HOUSING, PHYSICAL PLANNING AND SETTLEMENT COMMITTEE

<u>NAMES</u>	<u>SIGN</u>
1. Hon. Duncan Mwangi Njuguna - (Chair Person)	
2. Hon. Samson Kago Njoroge - (Vice Chair)	
3. Hon. David Kabaka Gichuru	
4. Hon. Charles Mwaniki	
5. Hon. Esther Nyakio Munywoki	
6. Hon. Samuel Ndehi Mwangi	
7. Hon. Catherine Wairimu Mugo	
8. Hon. Charity Wangui Rugu	
9. Hon. Lucy Wangechi Njoroge	

SCHEDULE OF AMMENDMENTS OF THE MURANG'A COUNTY RATING BILL, 2015

CLAUSE NO.	PROPOSED AMMENDMENTS	AMENDED AS
Short Title	To insert the word "property" on the title since the Bill is in relation to valuation and rating of property. So as to read " This Act may be cited as the Murang'a County Property Rating, Act,2015"	THAT, clause 1 of the Bill be amended by inserting the word "property" appearing immediately after the words "Murang'a County"
Clause 2: Interpretation	<p>1. Rename the words " Value of unimproved land" to "Unimproved Site Value"</p> <p>2. Deletion of the repeated part of the clause ' related to valuation of property' so as to read</p> <p>"any other land exempted from valuation under the law relating to the valuation of property for the purposes of rating"</p> <p>2. The following terms should be added and interpreted; 'Valuer', 'rating area', 'Public Land' and 'Community Land'</p>	<p>THAT, Clause 2 of the Bill be amended –</p> <p>(a) In sub clause 2 (b) by deleting the words "value of the unimproved land" appearing immediately after the words "deducting the" and substituting therefor the words "Unimproved Site Value"</p> <p>(b) In sub clause 2 (d) by deleting the repeated words "related to valuation of property", appearing immediately after the words " of property"</p> <p>(c) by inserting the following new terms and definitions;</p> <p>"the valuer" means any person or authority prescribed by or under any law for carrying out valuation of land for the purpose of imposing rates on land so valued;</p> <p>"rating area" means, in relation to any method of rating or rate adopted or levied under this Act, the area in, upon or in respect of which such method of rating or rate may, under this Act, be adopted or levied;</p>

		<p><i>"public land" means land transferred to the State by way of sale, reversion or surrender;</i></p> <p><i>" community land" means lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;</i></p>
<p>Clause 5: Staff</p>	<p>Insert the conjunction "in" that is erroneously omitted so as to read; "The County Public Service Board shall in consultation with the Executive Member ensure that the Department is resourced....."</p>	<p>THAT, clause 5 of the Bill be amended by inserting the word "in" appearing immediately after the words "Service Board shall".</p>
<p>Clause 6: (5) Levying of rates</p>	<p>2. Inserting a new sub clause for maintenance of a county register for both registered and non-registered ratable land, as found in the National Government Register.</p>	<p>THAT, clause 6 of the Bill be amended—</p> <p>(a) by inserting a new sub clause immediately after sub clause (6)—</p> <p>"(7) a comprehensive County Register which includes registered and non – registered of all ratable land within the County, may be maintained with a view to rating them.</p>
<p>Clause 19: Rates Chargeable on Property</p>	<p>Elaboration on the procedure of placing a legal charge on a ratable property especially in leaseholds.</p>	<p>A court decree should be issued before preparing a charge to a ratable owner and consent from the owner sought before legally placing a charge.</p> <p>THAT, clause 19 of the Bill be amended by inserting a new sub clause immediately after sub clause (3)—</p> <p>"(4) A court decree should be issued before preparing a charge to a ratable owner and consent from the owner sought before legally placing a charge."</p>

Clause 21: Enforcement of Rates

To include a sub clause indicating that rates shall be payable whether formally demanded or not.

THAT, clause 21 of the Bill be amended by inserting a new sub clause immediately after sub clause (2) —
“(3) rates shall be payable whether formally demanded or not, as and when they are due from the ratable owner as defined under section 2 of this Act.”