



**ECONOMIC & SOCIAL RIGHTS CENTRE
HAKIJAMII**

"Putting people first"

STATE OF HOUSING IN KENYA

Will Government Strategy Deliver on Social Housing?





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Nairobi, April 2018

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Economic and Social Rights Centre

'Haki Jamii'

PO Box 11356 - 00100 Nairobi.

Tel. +254 726 527 876

E-mail: escr@hakijamii.com

Website: www.hakijamii.org

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Prepared by:

Prof. Alfred Omenya

Eco-Build Africa

Design, Layout & Printing:

Myner Logistics Ltd

P.O. Box 9110 - 00200, Nairobi

Email: mynerlogistics@gmail.com

Website: www.mynerlogistics.co.ke



Table of Contents

ACRONYMS	5
FOREWORD	6
ACKNOWLEDGEMENT	7
EXECUTIVE SUMMARY	8
METHODOLOGICAL NOTE	12
1. INTRODUCTION	13
2. THE “1 MILLION HOUSING PROGRAMME”	15
2.1. Overview of The State Housing Programme 2018	16
2.2. Priority Areas	16
2.3. Support Requested for The Programme	17
2.4. State of National and County Housing Policies and Strategies	17
2.5. Proposed Housing Finance Framework	17
2.6. Social Housing in 'The 1 Million Plan'	18
3. SOCIAL HOUSING THE CASE 1: NAIROBI	21
3.1. County Social Housing Facts	21
3.2. Key Affordable and Social Housing Challenges	22
3.3. Specific Challenges of Slums and Informal Settlements	23
3.4. The Case of Kiambui	23
3.5. Low Income Housing Initiatives in Nairobi	24
3.6. Proposed Low Income and Social Housing in Nairobi	25
3.7. Concerns about The Proposed Social Housing	25
3.8. Recommendations for Improvement of Social Housing Development in Nairobi	26
4. Social Housing Case 2: Mombasa	28
4.1. County Social Housing Facts	28
4.2. Key Social Housing Challenges	28
4.3. Specific Challenges of Slums and Informal Settlements	29
4.4. The Case of Tudor	30
4.5. Low Income Housing Initiatives in Mombasa	32
4.6. Proposed Social Housing in Mombasa	33
4.7. Concerns About Social Housing in Mombasa	34
4.8. Recommendations for Improvement of Social Housing Development in Mombasa	34
5. Social Housing Case 3: Kisumu	36
5.1. County Social Housing Facts	36
5.2. Key Social Housing Challenges	37
5.3. Specific Challenges Of Slums and Informal Settlements	38
5.4. The Case of Bandani	38
5.5. Low Income Housing Initiatives in Kisumu	40
5.6. Proposed Social Housing in Kisumu	40
5.7. Concerns about Social Housing in Kisumu	40
5.8. Recommendations For Social Housing in Kisumu	41
6. Overall Concerns about the State Social Housing Programme	42
6.1. No Common understanding of Social Housing among State Agencies	42
6.2. Citizens understanding of Social Housing	42
6.2. No Lessons from Previous Slum upgrading Efforts	42
6.3. No Money for Social Housing	42
6.4. Redevelopment of Old Council Houses will Not Deliver Social Housing	42
6.5. Market Based approaches given Priority Instead of Slum Upgrading	42

6.6. No Consultations with Beneficiaries	43
6.7. Legal and Policy Vacuums	43
6.8. Some of The Pilot Sites Not Appropriate	43
7. Key Recommendations on the State Social Housing Programme	44
7.1. Recommendations for National and County Governments	44
7.1.1. Affordable Housing – Benefits to End User	44
7.1.2. Social Housing Should Focus on Slum and Informal Settlements	44
7.1.3. Social Housing Should Focus on Rental	44
7.1.4. Quality Public Participation, Especially By Pap	44
7.1.5. Should Be a Fair, Open Process For Identification of Paps and Beneficiaries	44
7.1.6. Threats of Forced Eviction	45
7.1.7. State Funding for Social Housing	45
7.2. Recommendations for Csos and Communities	45
7.2.1. Avenues of Collaboration	45
7.2.2. Regularisation of Beneficiaries	45
7.2.3. End user Benefits	45
7.2.4. Propose Alternatives	45
7.2.5. Advocate for Informal Settlement Upgrading and Affordable Rental	45
7.2.6. Demand Effective Public Participation	46
7.2.7. Forced Eviction / Threats of Evictions	47
References	47
List of Interviewees	48
Kisumu	48
Mombasa	48
Nairobi	48



Acronyms

ADP	Annual Development Plan
AfDB	African Development Bank
CIDP	County Integrated Development Plan
CSO	Civil Society Organizations
CUIDS	County Urban Institutional Development Strategy (CUIDS)
ISUD	Integrated Annual Development Plan.
KENSUP	Kenya National Slum Upgrading Programme
KISIP	Kenya Informal Settlements Infrastructure Programme
KNCHR	Kenya National Commission of Human Rights
NCC	Nairobi City County
NHC	National Housing Corporation
NSSF	National Social Security Fund
NSUPP	National Slum Upgrading and Prevention Policy
PAP	Project Affected Persons
PPP	Public private partnership
RBA	Retirement Benefits Authority
SACCOs	Savings and Credit Cooperatives
SEC	Settlement Executive Committee
UFA	Unclaimed Financial Assets (UFA)



Foreword

This is our most recent publication that looks at the state of social housing in Kenya in the context of the government's Big 4 Agenda. It is laudable that housing is now a priority for government and increasingly been considered a human right as opposed to a commodity only accessible to the wealthy. For the housing agenda to materialize, government must get the concept of "social housing" right from the onset. As expounded in this report, "social housing" must lay emphasis on the broader social issues around housing and livelihoods. The housing deficit in Kenya is mainly felt by the low income populace therefore supply by government must respond to this deficit.

On matters financing for the housing agenda, Public Private Partnerships (PPPs) model has been over emphasized by government as the primary model to fill the funding gap. PPPs, if not design properly, can involve enormous risks and costs to the public sector, exacerbate inequalities and decrease equitable access to essential services. Government should rethink their approach towards private sector participation in "social housing", and explore alternative means of financing. This may include revenues from property taxes, service charges and user fees, in compliance with human rights standards, funding by public banks, the issuance of public (including county) bonds and find ways to cross-subsidize different public services.

It is imperative that government strengthens public finance at all levels through widening the public policy space and making necessary adjustments in fiscal policies. The government must formulate sustainable development budgets in order to implement the housing agenda. The necessary reforms should not be limited to the national level but should also target the county level given housing is a devolved function. The strengthening of public finance is necessary at all levels which must include sufficient financial support, predictable and reliable funding for county governments, to enable them fulfill their "social housing" mandates.

We hope that this report will help largely in setting up successful collective mechanisms that will ensure the realisation of "social housing" in Kenya and that housing gains back it's currency as a human and constitutional right.

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Pauline Vata

Executive Director

Hakijamii, 2018



Acknowledgement

This booklet would not have materialized without combined efforts from Hakijamii staff led by the Executive Director, Pauline Vata. Special thanks goes to Samuel Olando, Lucy Baraza, Peter Karachu, Geoffrey Nyakundi, Zulekha Amin, Catherine Jelimo and Beatrice Oginga for support accorded all whom made very useful comments to the original draft.

We acknowledge and appreciate wealth of input from Prof. Alfred Omenya who heeded the call to take lead in research and compilation of this report.

With great humility, we express our sincere gratitude to the Housing Coalition Members and Civil Society Organisations in Kisumu and Mombasa Counties for actualising this study. Further appreciation goes to the Chief Executive Committee Members and their Chief Officers of Land, Housing and Urban Planning Departments in Nairobi, Mombasa and Kisumu Counties for their contribution to the content of this report.

Our sincere gratitude goes to Misereor for their generous support towards this research. Thank you for giving us the opportunity not only to explore and learn but also continue with our work on social justice and service to marginalised communities.



Executive Summary

A. Introduction

The background of this is the realisation that government is moving from a passive role of non-interference to a more proactive role of provision of housing as per the Constitution. This report sought to establish the facts about the proposed state housing programme under 'the Big 4'. This is based on the understating that informed inputs have the potential of significantly improving the programme.

The report focused specifically on social housing, given that this is one of the key area where majority of Kenyans are located, yet it is also one of the weakest areas in elaboration of the government's housing programme.

The report reviewed government documents and academic literature. A key element of the study was field interviews in Nairobi, Kisumu and Mombasa targeting County and National Government officials, experts, CSOs and CBOs and community members.

It is noteworthy that initial findings from this work is already being used by county governments of Kisumu and Mombasa as they develop their housing policies and civil society and communities as they engage county and national governments on the proposed housing programme.

B. Defining Social Housing

The Big Four creates a distinction of two categories of interventions as far as housing is concerned, namely: "affordable housing" and "social housing". Both concepts are not defined. We note though that 'social housing', like all social policy, is concerned not only with economic issues but also social issues around housing. It is benevolent, redistributive and concerned with broader non-economic social welfare issues including livelihood¹. It mainly applies to subsidised low-income rental housing for segments of society that cannot afford housing at market rates.

The Big Four considers social housing from cost perspective, i.e. houses selling for Kshs 600,000 (one room) and Kshs 900,000 (two rooms). These units are reserved for people earning below Kshs 15,000. It also refers to housing in informal settlements as social housing. This interpretation has led to differing focus between national and county governments, with national government focusing on social housing as low-cost housing development in informal settlements while counties consider it as inclusion of one or two roomed units in redevelopment of old council estates.

C. End user financial benefits, timescale, rental option and effective participation

While the Big Four proposes very specific on financing options for the affordable housing developments, it remains very vague on how social housing segment will be financed.

Cost reduction model. There are specific initiatives to attract the private sector into the affordable housing development, but there is no indication how the benefits accrued from governments' subsidy of the private sector will result in direct benefits to the end user.

We also note that the timescales for the project, which should have started in April 2018, is unrealistic given the number of legislative instruments that the government is yet to put in place. The hurried starting of the project may also mean that due processes are not followed through, including public participation and adequate notices for eviction.

¹ See Titmus, Richard (1974) *What is Social Policy*. London: George Allen & Unwin Limited.

All the counties should consider rental options for all the developments. Rent to own effectively excludes low-income households earning below 15,000 per month from living in most of the proposed developments, especially in the affordable housing segment.

It is noteworthy that public participation still remains superficial both in the national processes and at county level. It is mainly consultation. The public are not shaping any of these developments in any way; which is a concern. Lack of effective public participation also results in unnecessary litigation, which can be avoided.

D. Nairobi

Nairobi County intends to undertake social housing in a mix that includes slum upgrading and redevelopment of old Council estates. In Nairobi there are also concerns of eviction relating to infrastructure development, e.g. in the case of Deep Sea which is reflected here.

The report notes that provision of basic services in the slums is a very good initiative that will improve the lives of many slum dwellers and should be prioritised. The study recommends that lessons from Kibera Soweto and other recent slum upgrading initiatives, e.g. the railway development in Kibera be used for lessons. Besides National Slum Upgrading and Prevention policy, which is already in force should be followed in these developments.

There are concerns about evictions as a consequence of the slum upgrading programmes, in Kibera, Mariguini and Kiambiu, which are meant to be the pilots for social housing in Nairobi. Heterogeneity of the city needs to be considered. To that extent, the proposal to undertake pilot development in Kiambiu is ill advised, given the security of tenure issues in the settlement, which are well elaborated in this report. This needs to be resolved conclusively to remove unnecessary obstacles to housing development.

In the case of redevelopment of old council estates a primary concern is the fact that there is no current documentation of sitting tenants. Further, there are no legally binding tenancy agreements between the County and most of the current tenants. The agreements were done decades ago and have been overtaken by events.

E. Mombasa

Mombasa County's focus is on redevelopment of 10 old Council estates. The solution is a high-rise development, 12 to 16 storeys high. The developments are mixed use and will incorporate one and two roomed units that will sell for Kshs 600,000 and Kshs 900,000 respectively.

This model of development will make the units unaffordable to the low income given that high rise developments will require a lot of services which will translate to higher costs for the users. Further, like Nairobi, Mombasa has no up to date record and agreements with its tenants, therefore the question about how beneficiaries will be identified is unanswered.

There is the question of compensation already pegged at Kshs 540,000 per tenant for the two years of construction. This is actually 90% of the purchase price of one roomed unit. The amount is to be paid by the developer to each tenant. The concern is that most of the tenants have no tenancy agreements with the county. Further, tenants have no binding agreements with the developer. One wonders therefore how such payment will be effected.

Like Nairobi, Mombasa is also facing challenges of evictions due to infrastructure projects, including the case of Chaani highlighted in this report, where the pipeline is displacing informal settlers. It is important that due process is followed in these cases. By the time this study was taking place there were up to 40 eviction notices

by the county and various national agencies.

On a more positive note we note that Mombasa has developed a land policy and is in the process of developing a housing policy, which should be used to address some of these concerns.

F. Kisumu

Unlike Nairobi and Mombasa, it is now that Kisumu is starting to think through its affordable and social housing programme. Kisumu has identified sites for low income housing in Arena, Makasembo and Nyalenda estates. Kisumu is also thinking of redevelopment of its old council estates, but again this has not been developed to a point where it can be critiqued.

Meanwhile Kisumu has serious challenges of slum and informal settlements that need to be addressed. Informal settlements upgrading, through provision of basic infrastructure and services, and securing tenure through titling should be pursued as a priority. Further, like in Nairobi and Mombasa, there is need to ensure that there are no forced evictions as a consequence of infrastructure development or housing.

Kisumu is in the process of developing its housing policy. There are useful recommendations in this report on slum upgrading and social housing that should be implemented. There is need to plan the informal areas and deploy appropriate proactive instruments for development control in these areas to stop the proliferation of informal settlements, even as the physical infrastructure and services for the existing ones are improved.

In Kisumu we also note the need to engage with various cultural issues that have been highlighted in this report that make it difficult to regularise informal settlements, improve housing, provide security of tenure and undertake effective planning.

G. Overall Concerns

Overall the study identifies several concerns about social housing nationally, which include the ones listed below:

- Lack of common understanding of 'social housing' in national and county governments, civil society and communities.
- Lessons from previous slum upgrading efforts do not seem to have been factored into new initiatives under the "Big Four".
- Market based approaches to deliver 'affordable housing' have been given priority instead of social housing, especially slum upgrading - there is no clarity on how social housing will be financed.
- Redevelopment of old Council houses, into highly serviced high rise development, will produce housing that is not be affordable for those earning below Kshs 15,000 per month.
- There is a very limited consultation with beneficiaries. These do not meet the threshold of public participation envisaged in the constitution. There is need to deepen and broaden public participation.
- Undertaking these developments in a legal and policy vacuum does not portend well in terms of meeting national and international legal requirements for such developments. Legal reforms should be done with speed. Existing policies such as National Slum Upgrading and Prevention Policy should be implemented accordingly.
- Some of the pilot sites are not appropriate. They seem to have been picked in a hurry without consideration of all the factors. A case in point is Kiambiu in Nairobi.

H. Recommendations to County and National Governments

The study therefore makes the following specific recommendations to the National and County governments.

- Put in place mechanisms that ensure that the state subsidies for affordable housing benefit not only the private investor but also more importantly the end user.
- Social housing should focus on informal settlements upgrading and affordable rental housing.
- Undertake quality public participation, involving the project affected persons, and the public generally. One-way consultation is not what the Constitution envisaged and should not replace two-way, effective, public participation.
- There should be a fair, transparent process for identification of PAPs and project beneficiaries. This will require data and up to date agreements in the case of Council houses.
- There should be no forced evictions as a result of the planned housing developments or the on going infrastructure developments. National and international guidelines should be adhered to. Threats of forced eviction, e.g. in Chaani Mombasa, Deep Sea in Nairobi should also be addressed appropriately.
- There is need to put in place a proper funding mechanisms for social housing.

I. Recommendations to CSOs and Communities

CSOs and Communities have an important role to play. The report highlights these as some of the key areas in which CSOs and communities should focus on.

- Explore avenues of collaboration with government on the proposed programmes as mandated by the Constitution.
- Play a proactive role in the regularisation of beneficiaries including starting enumeration processes in areas where affordable and social housing have been planned. There is a further need to involve government in these enumeration processes.
- Start engaging the government on how the end user will benefit from the subsidies and other instruments that are now directed at the private sector especially in the 'affordable housing' segment.
- Propose alternative housing development models and examples for the government to consider, e.g. cooperative housing, incremental housing, etc.
- Advocate for slums and informal settlement upgrading, including securing tenure for all.
- Advocate for affordable rental housing, especially for those who cannot afford direct ownership or rent to own options and also for those who would prefer to rent for various reasons.
- Demand for effective public participation as envisaged in the Constitution, legislation and various guidelines.
- Plan clear mechanisms to deal with forced eviction, threats of evictions and other legal violation by the government or private sector that are likely to happen as a result of the proposed developments under the Big Four and on going infrastructure developments.



METHODOLOGICAL NOTE

The study involved review of secondary data, including the documents reflected in the body of this report and in the List of References. This was followed by illustrative case studies through field visits in Kisumu, Mombasa and Nairobi, which are the main cities in which the government programme will be rolled out. During the field visits interviews were held with government officials, experts, communities and civil society organisation, including members of NGOs and CBOs. Further grey literature was accessed from public officials and NGOs. These are reflected in the references.

Interviews during the field studies covered various issues including:

- How the housing problem has been understood;
- How national and county governments intend to address the problem;
- What the housing challenges are and potential solutions;
- Exploring county governments' actions to enhance housing delivery;
- Exploring national government's planned actions to enable housing delivery;
- How social housing is understood and how it can be delivered;
- Why low income housing is very expensive in Kenya compared to other countries and instruments that can be used to improve affordability;
- Exploring instruments that can be used for effective mass delivery of social housing;
- Identifying the main suppliers of housing for the poor, the challenges they face and potential solutions to these challenges; and
- Potential of social rental as housing solution for the poor in Kenya.

Information from literature, interviews and meetings were triangulated and used to verify the authenticity of information. A draft report was developed which was shared for inputs, leading to this final report.

In addition to the interviews, the research team attended community and CSO meetings on social housing in Mombasa and Nairobi. The team also attended the review of housing policy in Kisumu. Further the team was asked to input into the Housing Policy for Kisumu, the Department of Housing Strategic Plan for Kisumu, Kisumu County Urban Institutional Development Strategy for Kisumu and support the Housing Policy for Mombasa. There are also other requests to share the findings with National Government and professional associations. Outputs from this report have already been used to input into national and Nairobi based civil society organisations' positions on social housing programme under the Big Four.

Overall Theme

Urban areas in Kenya face acute shortage in the number of housing dwellings, inadequate infrastructure, community facilities and services, overcrowding and extensive slums and squatter settlements.² The government has embarked on a housing programme as part of the government's strategy focus aimed at improving housing, food security, health and industrialisation. The housing component is made up of two areas, namely 'affordable housing' and social housing. Social housing from government documents and interviews, refer to one or two-roomed accommodation in slums, old council estates and new greenfield developments³.

This study of the state of housing in Kenya reviews the planned housing delivery by the state, especially social housing. It questions the extent to which the current strategies, policies, programmes, will be able to contribute significantly to solving the housing problem, particularly social housing, in the context of the State's current focus on implementing 'the Big Four', namely: housing, food security, health and industrialisation.

The study provides a 'shadow report' reviewing, analysing and critiquing state strategy for housing delivery. It provides blow-by-blow researched responses to what the state is proposing as a solution to housing generally and to 'social housing' in particular.

Further, it **explores the 'positive responsibility'** of state to provide housing. The study explores the extent to which the state is shifting from 'the negative' none destruction of people's homes in the context of tenure security to meeting its 'positive obligation' to supply housing to the citizens as is required by the Constitution of Kenya 2010 which provides in sub article 43 (1) (b) that every person has the right to accessible and adequate housing, and to reasonable standards of sanitation.⁴

The study deals with the housing question, while specifically focusing on delivery of social housing, particularly on the following four issues:

- a) **Security of Tenure:** it assess the state of **tenure insecurity** in Mombasa, Nairobi and Kisumu Counties and how they affect housing rights especially for marginalized communities in urban informal settlements and how the state can leverage on the tenure situation to improve social housing;
- b) **Housing Finance:** it assesses the existing **housing finance** policies and how they promote or interfere with access to adequate housing for people living in poverty; it reviews the state's proposals on financing housing; it also explores the financing gap for social housing especially slum and informal settlement upgrading;
- c) **Housing Rights:** it engages the issues around the extent of **compliance** by government during planning, budgeting and implementation of infrastructural development projects on **housing rights**; and
- d) **Participation:** it examines the extent to which state housing and infrastructure programmes, urban renewal and informal settlement upgrading programs have taken into account the **rights and effective participation of tenants**.

Defining Social Housing

Social housing, like all social policy is concerned not only with economic issues but also social issues. It is benevolent, redistributive and concerned with broader non-economic social welfare issues including

² Republic of Kenya (2004), *the Housing Policy*. Nairobi: Government Printer.

³ Government of Kenya (2017) *"The Big Four" – Immediate Priorities and Actions for the New Term*. Nairobi: the Presidency.

⁴ Republic of Kenya (2010) *the Constitution of Kenya*. Nairobi: Government Printer.

livelihood⁵. In the UK where the concept has been applied for decades, social housing is mainly rental to the low income and the poor who cannot afford housing at market rates. The housing is subsidised by the state on the grounds of equity. Further the state attempts to mix this with different types of accommodation to limit stigmatisation and encourage cross subsidy⁶. Kenya has recently adopted this terminology. While it is not clearly defined, the state seems to use the term to mean housing for those who cannot be catered for by the market, but there is still ambiguity in the understanding, especially by the state officers as explicated in this report.

The report starts by reviewing the housing component of **'the Big Four'**, with a specific focus on social housing. It then discusses findings from field studies in Kisumu, Mombasa and Nairobi on low income and social housing development. It then presents the major concerns with low income and social housing initiatives as currently conceived in 'the Big Four'. It closes with a set of recommendations on how some of the key concerns can be addressed.

⁵ See Titmus, Richard (1974) *What is Social Policy*. London: George Allen & Unwin Limited.

⁶ Mills, John (2007) *Ends and Means: the Future role of Social Housing in England*. Summary of Case Report Number 34. London: ESRC Research Centre for Analysis of Social Exclusion pp 11 & 12.

2.1. Overview of the State Housing Programme 2018

⁷The government plans to develop one (1) million housing units in the next five years. Out of these 800,000 units are categorised as low affordable housing while 200,000 are categorised as social housing. Discussion with government officials indicates that the actual target is 500,000. That would mean that Social Housing target is about 100,000 units in the next five years⁸.

⁹The government intends to fund these initiatives to the tune of 10%, while the state owned NSSF is expected to give 30% funding. The balance 60% is meant to come from the private sector. The developments will be made up of 7,000 acres in five major towns of Nairobi, Mombasa, Kisumu, Eldoret and Nakuru. Figure 1 below highlights this overview.

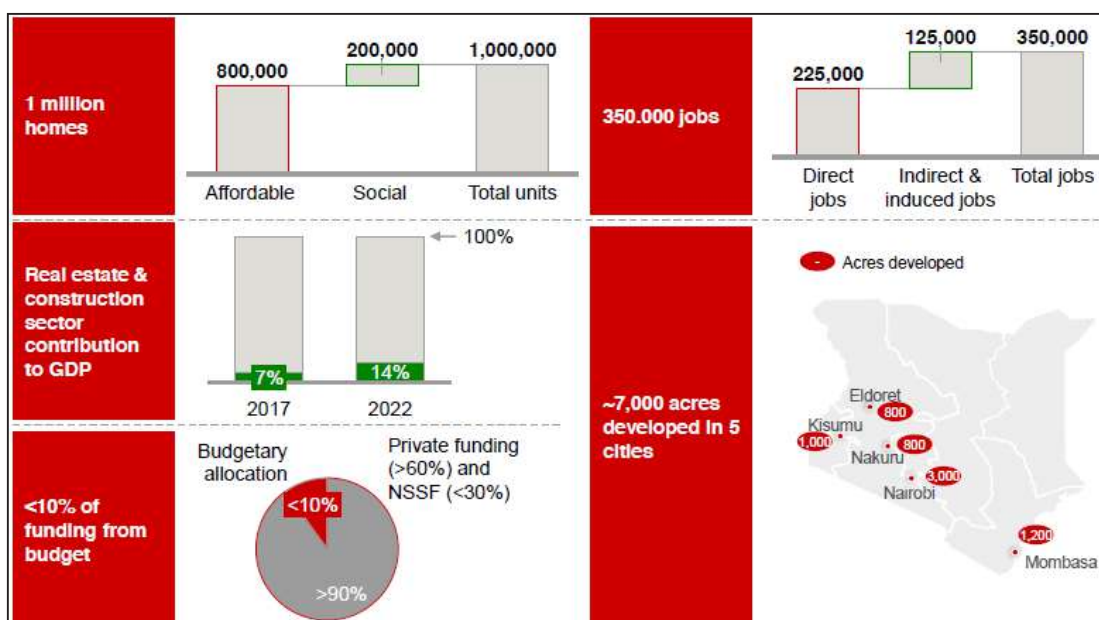


Fig. 1: Key metrics of 1 million homes

Source: GoK, 2017

Some of the ideas that are being explored by government to make this a reality include:

- Demand driven master plan;
- Land in the right location, at least 5km from employment;
- Lowering construction costs through technology;
- Innovative financing models, through PPP and NSSF balance sheets and off plan sales; speeding up transfer of titles and PPP; affordable home buyer financing through line of financing; credit line, a re-mortgaging company including background checks for person in informal sector; and incentives to home buyers.

⁷ Government of Kenya (2017) "The Big Four" – Immediate Priorities and Actions for the New Term. Nairobi: the Presidency.

⁸ Interviews with senior officials of in the State Department of Transport, Infrastructure, Housing and Urban Development.

⁹ *ibid*

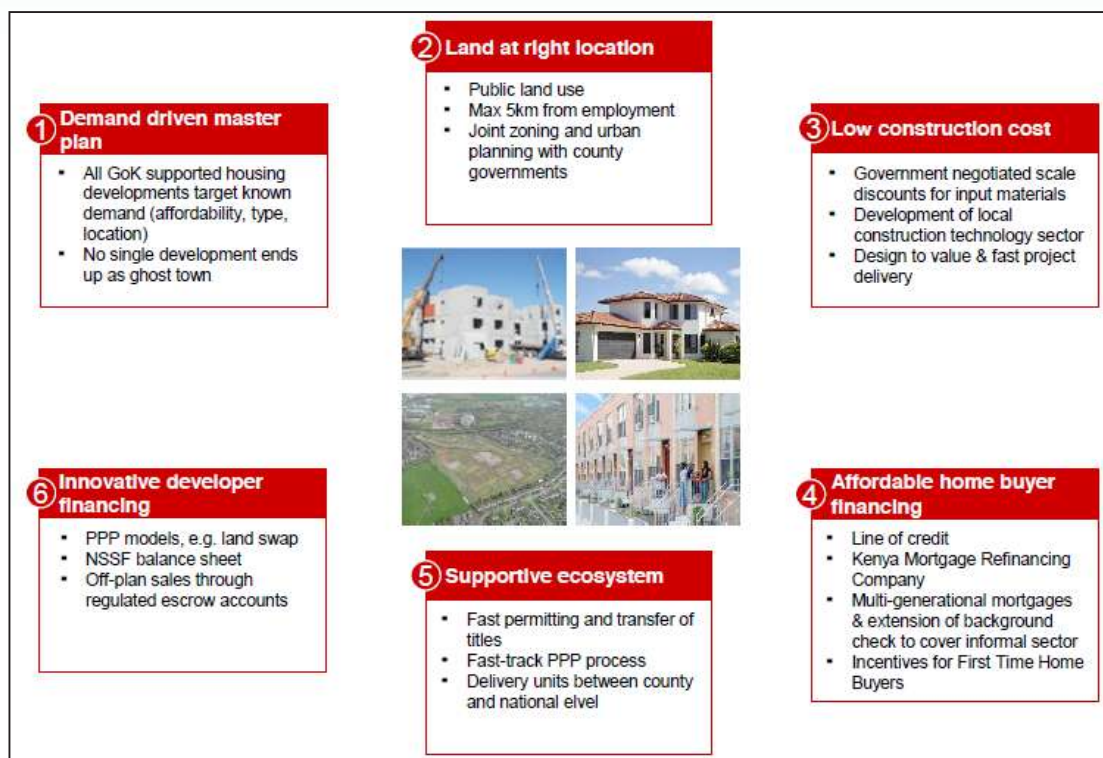


Fig.2: Core ideas of the 1 million housing plan

Source: Government of Kenya, 2017

2.2. Priority Areas

¹⁰The Big Four has identified the following seven priority areas for affordable and social housing:

- Development of a demand driven master plan - matching supply of housing with demand;
- Unlocking land for housing development (land banking, land swap, taxing idle land);
- Use of scale to reduce construction costs, including standardisation, negotiation of housing inputs and investment into construction technology;
- Scaling up developer capacity and financing, through public private partnerships (PPP), funding through the National Social Security Fund (NSSF) balance sheets; etc.
- Growing mortgage financing – arrange credit line (with the World Bank and the African Development Bank), establishment of the Kenya Mortgage Refinancing company to support banks to offer mortgages to the informal sector;
- Enhancing supportive ecosystem, including fast tracking statutory processes, planning at county level, reduction of costs, e.g. stamp duty, align with public infrastructure spending; and
- Launch projects to create momentum, e.g. 55 acres Mavoko, old council estates, start social housing supported by unclaimed financial assets (UFA) and public private partnership for development of the East African Portland estate.

2.3. Support Requested for the Programme

¹¹In order to realise its objective of housing provision for the Big Four, the National Government has made the

¹⁰ Government of Kenya (2017) "The Big Four" – Immediate Priorities and Actions for the New Term. Nairobi: the Presidency, pp26 and 27

¹¹ Government of Kenya (2017) "The Big Four" – Immediate Priorities and Actions for the New Term. Nairobi: the Presidency, pp28.

following urgent requests:

- i. Public land transfer to the land bank starting with land currently owned by the East Africa Portland Company, Kenya Prisons and Kenya Railways;
- ii. Legislative approvals to enable the operationalization of the NSSF Act 2013 (increasing contribution from Kshs 400 to Kshs 1080); request for amendment of Retirement Benefits Authority (RBA) Act to allow the NSSF invest more than 30% in real estate; amendment of stamp duty to exempt first time home owners; approvals of Idle Land Tax; review of Public Private Partnership Framework to fast track process for predefined models; and reduction of property transfer costs for social and affordable housing;
- iii. Allocation of funding for supportive infrastructure and services to be done on the basis of requests; and
- iv. Financing of 55 acres Mavoko development for pilot phase of low-income housing and 1000 acres in Mavoko for the main rollout using the NSSF balance sheet.

2.4. State of National and County Housing Policies and Strategies

¹²The ambitious one million housing plan has been started in a policy and legal vacuum. To meet the policy and legislative gap the state plans to undertake the following:

- NSSF Act operationalisation;
- Reviewing of RBA Act;
- Reviewing of Stamp Duty;
- Amendment of the Sectional Properties Act;
- Reviewing of Public Private Partnership Framework;
- Amendment of the Housing Act (Revised version 2015) and
- Review National Housing Corporation (NHC) Act.
- Implementation of National Slum Upgrading and Prevention Policy

While the benefits of the initiatives to the private investor is relatively clear; it is unclear how these initiatives will translate to benefits to the end user; especially the urban poor. How do we ensure that the market will not mop these benefits out? The strategy is quiet on the Slum Upgrading Policy.

It is not only the national government that lacks a housing policy to drive these initiatives, counties, likewise, do not have these policies. Having these policies will enable the two levels of government to focus on their constitutional roles in regard to housing. National governments role is to provide overall frameworks for housing delivery. The counties have the role of delivering the actual housing units¹³. The key elements of what should make the housing policy are vague. The housing question has not even been determined. The positive issue though is that the case study counties have already embarked on development of County policies supported by the national government and development partners.

2.5. Proposed Housing Finance Framework

¹⁴The categorisation of the various income segments for the housing programme is as follows:

- Kshs 0 – Kshs 14,499 Social housing;
- Kshs 15,000 – Kshs 49,999 low cost housing; and
- Kshs 50,000 – Kshs 99,999 mortgage gap.

¹² Ibid pp55

¹³ Republic of Kenya (2010) the Constitution of Kenya. Nairobi: Government Printer.

¹⁴ Interview with officials from the State Department of Housing

Statutory exemptions: a number of incentives have been proposed including tax reductions, reduction of stamp duties on mortgages and tax-free savings towards housing.

Developer Finance: the state intends to leverage resources from the private sector, the NSSF balance sheets and off plan sales towards low-income housing. Release of public land for housing, public funding of infrastructure and reduction of cost of financing are amongst other measures that have been proposed. These measures are to help developers reduce the cost of capital investments by 25%.

¹⁵There are several public private partnership negotiations that have been going on before the announcement of 'the Big Four'. These also include land swaps and joint ventures. The ones reflected in 'the Big Four' document include CADFUND / Suraya (20,000 units); SCOPE designs (6,400 units); China Wu Yi (10,000 units); TATA Group (10,000 units); Akcel Group LLC (1,500 units) and SIBCO assets (1,800 units). What isn't clear is why there is no progress despite the fact that these negotiations have been going on for some time. The current public, private partnership framework has been faulted for being too cumbersome, with bureaucratic delays at the National Treasury which does the approvals and poor capacity to design public private partnerships that meet the requirements of the Act and government's guidelines at county level¹⁶. The current PPP Act is indeed an obstacle to doing PPP projects. It should be revised to make it more effective.

End User Financing: on end user financing the key instrument proposed is to establish tenant purchase schemes. This will be realised through 25-year mortgages. There are also suggestions to establish multigenerational mortgages. But this is an area where much work still needs to be done to produce a workable model.

¹⁷**Cost reduction model:** the state intends to reduce the cost of the housing units by employing the following strategy: reductions due to appropriate technology (15%); design (15%); infrastructure (20%) and land (25%). These measures are meant to cut down the cost of the housing unit by 50% from 5 million to 2.5 million for a three-bedroom unit. What is unclear is what mechanism the state will use to ensure that these benefits are transferred to the end user.

¹⁸**Land tax:** another financial measure that has been proposed is taxing idle land. This is intended to reduce the demand and the cost of land. Such a model has been used in Saudi Arabia to discourage speculation. It is a good idea, what remains to be seen is the willingness of the state to implement a policy that would be quite unpopular with speculators, who tend to be the same leaders of the state.

2.6. Social Housing in 'the 1 Million Plan'

In the big four there are two categorisation of low-income housing: 'affordable housing' and 'social housing'.

¹⁹Discussions with government officials indicate that the intention of social housing was to address housing in the slums and informal settlement areas. However, there is no clear understanding across departments and even between national and county governments of what 'social housing' actually entails. Discussions with the Kenya informal Settlement Staff and KENSUP emphasized that social housing should target slums and informal settlements upgrading. This was not the view of counties; whose focus was redevelopment of old council estates. In fact there are suggestions that there should be a national summit to level the ground on concept of social housing.

¹⁵ Government of Kenya (2017) "The Big Four" – Immediate Priorities and Actions for the New Term. Nairobi: the Presidency pp54

¹⁶ Republic of Kenya, Public Private Partnership Act, 2013 (revised Edition, 2015). Nairobi: Government Printer. See also Republic of Kenya (2014) Public Private Partnerships Guidelines. Government Printer.

¹⁷ ibid pp52

¹⁸ ibid pp51

¹⁹ Discussions with KISIP and KENSUP

²⁰The plan talks about upgrading in Kibera Zone B (4,200) on 9.8 acres, and Zone “C”(4,200), Mariguini (2,700) on six acres, and Kiambiu (4,000 homes) on 50 acres starting August 2018 as the investment in social housing. The housing units are to be made of one and two room units. The document and indeed discussions with government officials distinguishes social housing and affordable housing by number of rooms, where one or two rooms constitute social housing, while bedsitters, one bedroom, 2 and 3 bedroom units are called affordable housing, see Figure 3 below.

	1 room KES	2 room KES	Bedsitter KES	1 bedroom KES	2 bedroom KES	3 bedroom KES
Social housing (Max Cost)	• 600,000	• 1,050,000	• n/a	• n/a	• n/a	• n/a
Affordable Housing (Max Cost)	• n/a	• n/a	• 800,000	• 1,000,000	• 2,000,000	• 3,000,000

Figure 3: Social Housing and Affordable Housing, p61.

It is clear that rooms are the key determinant of categorisation of the so-called social housing in ‘the Big Four’. The Big Four document goes ahead to highlight mortgage payments for Kibera Zone A as illustrative of mortgages for social housing. In that scenario, the model shows that those who spend about Kshs 3,849 and 5,698 qualify for mortgages for one and two rooms social housing units in Kibera. The two groups will pay mortgages of Kshs 2,651 and 4,268 respectively.

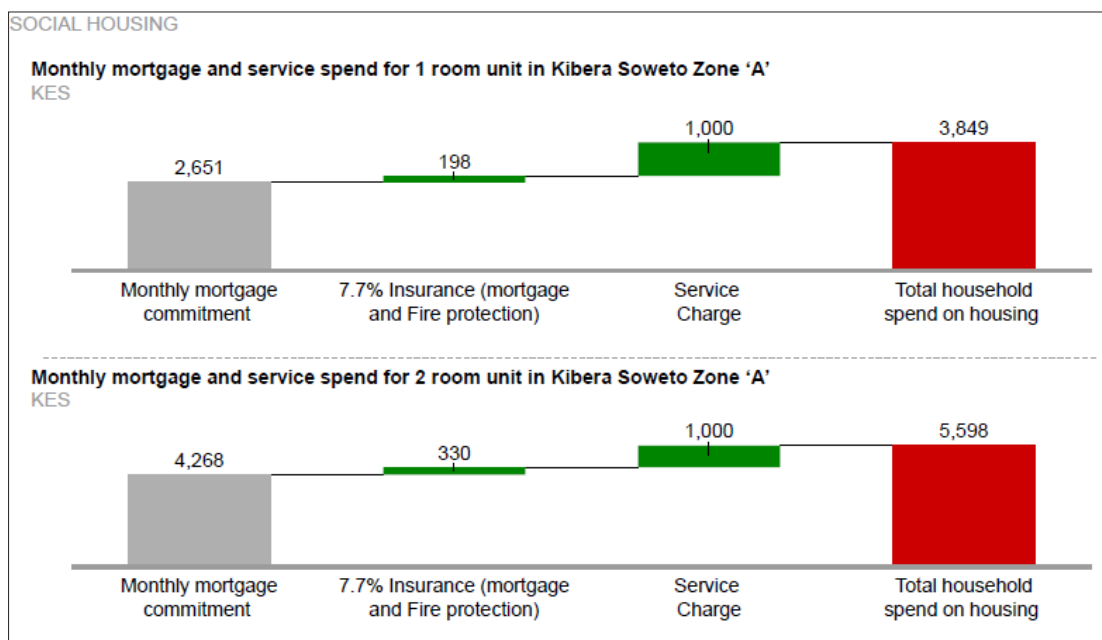


Figure 4: Mortgage Commitments for 1 and 2 roomed housing in Kibera

Using the Kibera model for mortgage payment aptly titled “social housing” confirms that the thinking is really about the number of rooms. It also confirms that the focus is only on ownership, with no provision for pure rental.

²⁰ *ibid* pp56

According to county officials in Mombasa, social housing will be provided through redevelopment of old council houses. Slum upgrading is not considered as part of social housing. Like the National Government document²¹ social housing seems to have been interpreted to mean incorporating one and two room units into mixed high-rise development, in the most simplistic manner. Servicing high-rise developments will ensure that these developments do not fit within the total expenditure envisaged by National Government. In Kisumu the idea is even more vague.

Funding of social housing is still vague. It is envisaged that this will be done through the exchequer. Modalities have not been worked out how this will be done, being as it may that development of housing is actually county governments' mandate; therefore the national government is unlikely to be involved in direct delivery of social housing. Meanwhile, it is unclear how the counties will do this, given capacity challenges they suffer. In the meantime, national government has written to counties and counties have written back indicating locations, which are mainly greenfield sites for social housing. This seems to go against the initial intention that social housing would focus on slums and informal settlements.

²¹ Government of Kenya (2017) *"The Big Four" – Immediate Priorities and Actions for the New Term*. Nairobi: the Presidency.



Fig. 5: Kibera Soweto East Decanting Site ²² Source: Government of Kenya, 2018

3.1. County Social Housing Fact

²³In 2009, the Nairobi county population was projected to be 3,138,369 and is expected to rise to 4,941,708 in 2018. Nairobi commands the largest share of formal sector wage employment in Kenya with a total of 453,000 people. The informal sector employs 1,548,100. According to the Kenya National Population and Housing Census 2009, Nairobi had a labour force of 2,148,605; comprising of 1,034,009 females and 1,114,596 males. Out of the 2,148,605 persons in the labour force, 1,832,751 were classified as employed while 315,844 were seeking for employment. The youthful proportion of the labour force consists of 561,457 males and 648,756 females.

The level of unemployment in Nairobi stands at 14.70% cent with the female unemployment rate standing at 18.99% while that of males is 11.55%.

On housing, majority of households in Nairobi City County live in rented structures at 91%. Share of households who own structures but rent the land are the least at 1%. Owners of both structures and land are 7% of the entire households (see Figure 5 below).

²² Republic of Kenya (2018) National Urban Forum. Country Position Paper. Unpublished.

²³ County Government of Nairobi (2018) Draft County Integrated Development Plan, 2018-2022. Nairobi.

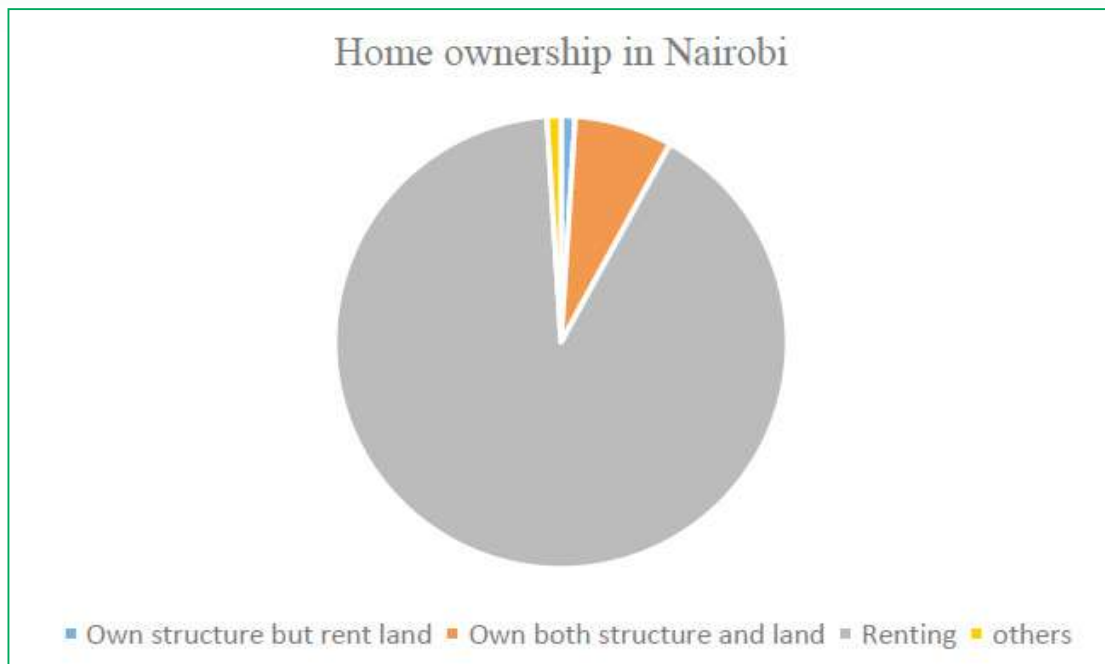


Fig.6: Home ownership figures in Nairobi

²⁴Nairobi County has an annual housing demand of 150,000 to 200,000 housing units annually yet only about 15,000 development applications were submitted in 2013. More than 48% of the supply is for upper middle income, 35% for high income and only 2% for low income despite having the greatest housing need. The shortfall of housing supply for the low income is met through the proliferation of slums and informal settlements. Over 60% of the residents in Nairobi live in informal settlements. Nairobi County provides only about 17,000-rental housing; all developed in colonial times.

²⁵According to the World Bank, 61.7% of residents in Nairobi live in a one roomed unit, 15.7% in a two roomed, 12.5% in a three roomed, 4% in a four roomed, 3.3% in a five roomed unit, 1.1% and 1.7% in a seven to fifteen roomed units.

²⁶In terms of construction materials, stone and block walled houses account for 65.9% while wood and corrugated iron sheet account for 31.1%. The classification by floor type indicates that 75.8% of household have cement floor, 14.2% earthen floor, 7.5% tiles and 2.2% for those with wooden floor. Most of the households in Nairobi have corrugated iron sheet roofed houses, which accounts for 56.6%. Tiles and concrete roofs account for 12.4% and 27.9% respectively.

²⁷On services, about 61.5% of the population use flush toilets as the main sanitation method, while 32.1% use pit latrines. The remaining 4.8% of the population have no sanitation at all.

²⁸On garbage collection, 36.1% of the communities have their garbage collected by private firms and neighborhood community groups collect similar percentage.

3.2. Key Affordable and Social Housing Challenges

Below are some of the challenges of low income housing in Nairobi:

- i. The county is characterised by insufficient supply of affordable and decent housing which is more severe

²⁴ The World Bank (2016), *the Kenya Urbanisation Review*. Washington DC: the World Bank

²⁵ *ibid*

²⁶ *ibid*

²⁷ *ibid*

²⁸ *ibid*

for low and middle-income earners;

- ii. Most Nairobi residents are renters yet the proposed housing solution does not consider pure rental as an option for the mobile workforce or those not ready to shoulder the burden of home ownership or long term debt;
- iii. Land values in the city are so high that it is impossible to deliver low-income housing in appropriate locations;
- iv. State and employers have abandoned the role of provision of housing to their workers, who in turn compete for limited housing units provided by the private sector, in tenements and in the informal sector; and
- v. Proliferation of poorly serviced slums and informal settlements is rampant, as an informal way to deal with inadequate housing provision.

3.3. Specific Challenges of Slums and Informal settlements

²⁹Nairobi residents living in informal settlements face challenges of high insecurity, inadequate access to clean water, lack of public education and health facilities, poor sanitation, high disease incidences, poor solid waste management, inadequate housing, and high cost of housing amongst others.

Security of tenure in the city is problematic with some communities having been squatters on public land for more than a decade. Evictions and threat of forced evictions are rampant, especially due to large infrastructure projects for example the case of Deep Sea informal settlement in Westlands. Slum upgrading as a mechanism for tenure security is rare and in many incidences driven by development partners. This was seen in Mathare 4A, Korogocho based on debt swap with the Italian Government and Kibera Zone A. The efficacy of some of the projects have been wanting with initiatives like Kibera Zone A taking almost a decade to deliver housing and tenure security. Tenure insecurity continues to be a major challenge in most informal settlements in Nairobi as illustrated in the case of Kiambiu, which is described next.

3.4. The Case of Kiambiu

³⁰The land issue in Kiambiu is a major problem. Both national government officials and community are of the opinion that development of social housing in Kiambiu is untenable, at this time, due to the long-standing land disputes and matters relating to the air path of Eastleigh Airbase, amongst others.

- Kiambiu has been occupied since 1950 and has a population of about 10,000 persons. In 1988 the residents got a one-month notice from the Chief of Eastleigh location ordering them to vacate the land, reserved for the government's Eastleigh Airbase.
- Ministry of lands had done some planning, signed by the then Kenyan Commissioner of Lands W. Gachanja in 1994 towards upgrading of the settlement.
- Former presidents of Kenya, Moi and Kenyatta, had decreed that Kiambiu be developed and tenure secured for the residents. This is yet to happen.
- Land grabbers have targeted land in the well-located settlement. This was attested to by complaints about land grabbing through a letter by a former Member of Parliament for the area to the Ministry of State, in the Office of the President.

²⁹ See for example *The World Bank (2016), the Kenya Urbanisation Review. Washington DC: the World Bank*

³⁰ See Omenya, A. (2006) *A thin veil of protection: fragility of informal tenure in Nairobi and Johannesburg. Paper presented at an international conference on: Homelessness a Global Perspective, New Delhi, India 9th – 13th January 2006.*

- As far as planning is concerned in Kiambiu, the Muungano wa Wakaaji wa Kiambiu (Kiambiu Residents Association) received a letter from Mr. Kibinda, Director of City Planning, in 2002 allowing them and the local authority, the Nairobi City Council (NCC) to plan the settlement collectively. The Chief and the councillor, a Mr. Kiungu, agreed that allotment letters would be issued to the residents, upon payment of Kshs 5000.00.
- In 2003, a Mr. Wickliffe Ogallo, on behalf of the Secretary to the Cabinet, wrote to the Permanent Secretary, Ministry of Lands, referring to this particular letter and suggesting that Kiambiu was amongst the cases left pending by the Commission of Inquiry into the Land Law System in Kenya.
- In May 2002 the residents sent yet another letter to the Hon Uhuru Kenyatta, who was the then Minister for Local Government. There was no action.
- Thereafter in June 2003, they sent another letter to Hon Raila Odinga, who was then the Minister of Public Works Roads and Housing. Again nothing was done.
- On the 4th of March 2003, Mr. Kibinda, Director of City Planning, wrote to Muungano wa Wakaaji wa Kiambiu suggesting a partnership towards upgrading of the slum.
- Later in the year, on the 15th October 2003, Mr. Odongo, Assistant Director of City Planning, wrote to the District Officer (D.O.) Pumwani, under whose jurisdiction Kiambiu falls to clarify that there had not been any council subdivision or allocation of land in the settlement contrary to the plan signed on behalf of the Commissioner of Lands way back in 1994.
- In 2005 the community lost the football field to an unknown person who fenced it off and started building flats for rent. Of course the community alerted the authorities and nothing was done.
- In 2018, the community received notices from the Ministry of Lands, Housing and Urban Development to evacuate by April 2018 to enable development of social housing in the settlement.

The case of Kiambiu remains complex and unresolved today. It is puzzling though that the government believes that social housing can be developed there starting from August 2018. This is contrary to what the residents, local civil society organisations and even some government officials think. The settlement is the wrong place to do a pilot given the number of unresolved issues there, which will put unnecessary roadblocks to the state housing programme.

3.5. Low Income Housing Initiatives in Nairobi

Nairobi is in the process of development of its housing policy through Saad Yaya Associates. It needs to answer the question: what is the core-housing problem in the city? What is the housing inadequacy and how is it manifested? It also needs to distinguish social and market type for housing. What are the typologies of houses required, and their costs?

The county has had a long drawn plan to redevelop all county rental houses (17,000). However, this has taken inordinately long due to slowness in the PPP arrangements. The county should ride on 'the Big Four' to develop some momentum towards this initiative.

³¹Some of the ill maintained housing stock owned by the City County is to undergo some renovations. But numbers are limited as only 150 housing units have been renovated and some limited repair works has been done on about 1,000 units. About 16,000 units have not been touched at all.

Nairobi settlements have been beneficiaries of Kenya Informal Settlements Infrastructure Programme (KISIP).

³¹ County Government of Nairobi (2018) Draft County Integrated Development Plan, 2018-2022. Nairobi.

This is coming to an end in May 2018, but a precursor is expected to be in place in about one year's time. The city can leverage on this to improve some of its informal settlements.

³²Works under KISIP include infrastructure and services, including roads, sewer works and street lighting. The actual projects were undertaken in KCC and Kayole settlements. Planning and survey has been done in 14 settlements: Njiku, Kinyago, Kanuku, Kambi Moto, Kosovo, Mathare 4B, Mathare Mashimoni, Kitui Village, Embakasi, Ghetto, Gitathuru, Redeemed, Kahawa Soweto, and Mji wa Huruma. These are meant to benefit from infrastructure improvements once designs have been completed.

³³Mukuru has been declared a special planning area in 2017 to facilitate integrated planning for the area.

Nairobi was also a beneficiary of the Kenya Slum Upgrading Programme (KENSUP), a programme designed to address proliferation of slums and informal settlements in urban areas through systematic upgrading. The programme started in 2005. In Nairobi it has resulted:

- In construction of Kibera decanting site comprising of around 600 housing units.
- Housing redevelopment of Kibera Soweto East Zone 'A' comprising of 21 blocks of flats consisting of a total of 822 housing units, social hall, youth centre, boundary wall, external works and landscaping.

In the neighbouring Machakos County, the programme produced 462 housing units, police station, health centre, market stalls and other ancillary works for different income groups living together and sharing infrastructure and other services as one gated community³⁴

3.6. Proposed Low Income and Social Housing in Nairobi

³⁵Nairobi, in collaboration with national government intends to put in place 400, 000 affordable and social housing through redevelopment of the old Council estates. Phase 1 of the project will involve redevelopment of seven estates, Pangani, Old Ngara, New Ngara, Jeevanjee / Bachelors, Ngong Road inspectorate, Suna Road and Uhuru Estate.

³⁶Phase 2 will involve redevelopment of Uhuru, Buruburu, Harambee, Huruma, Bahati, Landi Mawe, Mbotela, Makadara, Jericho, Maringo, Ofafa, Kaloleni, Shaurio Moyo, Gorofani, Bondeni, Landies Road, Embakasi, Kariobangi North, Kariobangi South, Jerusalem, Ziwani, Woodley and Embakasi.

³⁷Redevelopment of the old council estates is meant to be taken in collaboration with private sector through public private partnership. It is noteworthy that these initiatives started some years back but have not yielded much thanks to bureaucracy, vested interests and log jams in Treasury for approval of PPPs. In this arrangement, the county is meant to provide land as equity, while developers finance construct and offer technical expertise. ³⁸According to the County, ground breaking is to happen in May 2018. A total of 12,150 units are planned and some 4,850 market stalls in phase one, while some 100,000 units are expected in phase 2. A feasibility study funded by the World Bank is going on for Phase 2 of the development in selected settlements. Social amenities are also to be provided as part of the development package.

³⁹There is planned development of 600 social housing units in Mji wa Huruma informal settlement in Karura.

³² *The Standard*, Sunday 22nd April 2018. Nairobi City County, 5th Annual Devolution Conference. Advertisers Feature, pp 25.

³³ *ibid*

³⁴ Republic of Kenya, Ministry of Land, Housing and Urban Development (October 2016): *National Report on Human settlements and the New Urban Agenda towards Habitat III*

³⁵ *The Standard*, Sunday 22nd April 2018. Nairobi City County, 5th Annual Devolution Conference. Advertisers Feature, pp 25.

³⁶ *Ibid* pp25

³⁷ Interview with former CEC in the first county Government.

³⁸ *The Standard*, Sunday 22nd April 2018. Nairobi City County, 5th Annual Devolution Conference. Advertisers Feature, pp 25.

³⁹ *ibid*, pp25

Further planning, provision of basic services and infrastructure and security of tenure will be done in a number of informal settlements. Social housing may also be explored 'where possible'. These estates include Kati, City Carton Buruburu, Githogoro, Mji wa Huruma, Mukuru, Fuata Nyayo, Kisii, Site Village, Hazina Sokoni, Mailisaba, Mihango, Mwengenyi, Juakali, Kibera, Mahira, Huruma Ex Grogon, Kahonoki, Kiamutisya, Babadogo, Kasabuni, Kariadudu, Gathecha, Lucky Summer, Glu Lucky Summer, Korogocho, Ngungumu, Muriambogo and Kabiria.

⁴⁰Housing is proposed in Nairobi's slums of Kibera, Mariguini and Kiambiu slums. As reiterated in Section 2.6 of this report the development includes development of 4,200 housing units on 9.8 acres in Kibera Zone B; 4,200 units in Kibera Zone C; 2,700 units on six acres in Mariguini, and 4,200 units on 50 acres in Kiambiu. The housing units are to be made of one and two room units.

3.7. Concerns About the Proposed Social Housing

Effective participation especially by the PAP. Nairobi residents from settlements affected by the proposed national government social housing programme are concerned that there has not been effective participation on various key aspects of development of the social housing programme, including: the scope; the design; mode of delivery; communication and awareness framework; choice of the sites; the matter of evictions; etc.

Relocation processes. A number of informal settlements, viz Kibera 4B, Mariguini and Kiambiu have already been given notices to pave way for development of the proposed social housing projects in Nairobi. There are concerns that there does not seem to be any clear relocation process. Some questions that arise in this regard include:

- i. What is the relocation process? Can we also state that there is no Relocation Action Plan at the moment which is in complete disregard of international practices and law
- ii. Will there be decanting sites?
- iii. In case of in situ development, where are people expected to move to?
- iv. Will there be compensation for those who will be evicted?

Project timelines. The proposed project timelines, with starting dates on April 2018, do not seem to be realistic based on the processes that would guarantee constitutional requirements and local complexities. Further previous projects have not been realised within the proposed timelines, e.g. Kibera Soweto, and Mlolongo. It is unclear how the ministry is using lessons from these projects to ensure that the projects overcome the bottlenecks that made the previous efforts inefficient.

3.8. Recommendations for Improvement of Social Housing Development in Nairobi

In situ development. Displacement of residents by the proposed developments is a concern. The developments can start in areas that do not need displacement of people. The developed areas can then be used as future decanting sites during the slum upgrading. If the projects are done at the same time, there will be crisis of decanting sites.

Consideration of Livelihoods. There is need for enumeration to understand livelihoods, income and social networks, in the affected settlements. The developments need to incorporate sources of livelihood, including creating opportunities for the locals during the construction phase of the project. The community members should establish cooperative model so that there is savings.

Guarantee of beneficiaries. The project should be based on a system that guarantees ownership or

⁴⁰ Government of Kenya (2017) "The Big Four" – Immediate Priorities and Actions for the New Term. Nairobi: the Presidency.

appropriate restitution to Project Affected Persons. Matters relating to various possible security of tenure, including rent to own arrangements should be carefully explored. Compensation frameworks for those who will inevitably be displaced should be clear and agreed with PAPs in advance.

Data of project beneficiaries. There is need to have accurate data on the PAP. Data should be used in various aspects of the projects from identification of the PAPs; mapping of livelihoods, creation of cooperatives and participation in construction, amongst others. Mapping should also capture tenants and investors. The latter normally have resources to invest. It should also capture details of residents who have no interest in ownership. In that regard the projects should consider social rental options. The tenants are not necessarily the investors. Enumeration tool should capture the willingness to own and the ability to pay. There is need for recognition of the role and collaboration with local investors that are already providing housing, albeit outside of the legal framework.

Destruction of social networks. Social networks should be considered in all aspects of the projects, including relocation, decanting and allocation of the units.

Cost of houses and compensation frameworks. The design and cost of housing units need to be discussed exhaustively with stakeholders. The price and modes of financing should take into consideration the actual quantum and cash flow realities of informal settlement communities. Modes of cost reduction, including sweat equity; tax rebates for developers; social entrepreneurs as owners and SACCOs as part of PPPs should be explored. There should be in place a Housing Fund to subsidize social housing. Cost per square metre should be lower than market based costs.

Fit for purpose approaches. Nairobi informal settlements are heterogeneous; e.g. some have titles, others allotment letters, others no ownership document at all; most sit on public land, some on counties land, yet others on private land. This calls for different approaches to development in different settlements. Despite all these, all the settlements need basic infrastructure and services.

Delivery through housing cooperatives. A number of communities recommended social housing through cooperatives. This will ensure that residents get into the habit of saving. This will prevent richer individuals from displacing the rightful intended beneficiaries. It will also help in management of housing units post construction.

Legal and Policy Vacuum. There is concern that housing in 'the Big Four' is happening with a housing policy inconsistent with the constitution. There is need therefore to put in place relevant acts of parliament to support social housing. There is also need for relevant legislation and regulations at County level. These are critical in dealing with structural obstacles to housing provision. Therefore there is need to complete policy, regulations and strategies. Further, there is need to harmonise various projects by counties and national government.



Figure 7: Informal Settlement in Tudor that sprawls to the sea

Source: Author

4.1. County Social Housing Facts

⁴¹Mombasa island has an area of 287 square kilometres. Out of this 134 square kilometres is developable. Mombasa has a population of slightly over 1 million. 38% are living below the poverty line. 60% are employed in the formal sector.

⁴²72% of housing provided is in slums. Mombasa has 116 informal settlements. 92% housing provided by is provided by private sector. The public sector cumulatively only provides 8% of housing. The first plan of the city was done in 1971. Recently, in 2015 the county completed its integrated urban development plan with the support from the World Bank.

⁴³County estates, e.g. Mama Ngina, Buxton, Khadija, Tudor, Makande; Chagamwe, Likoni, were all done by the Colonial authorities, there is no housing by post independence governments. Rents in these estates are subsidised. Rents range from Kshs 900 to kshs 3,065 per month. However most of the units are in very poor shape and in dire need of renovation. Many don't have running water, power and functional sewer system. 80% of the tenants have died; succession has not been done. Public utility areas in the estate and open spaces have been grabbed and turned into slums. The management of the estates have collapsed.

⁴⁴Only 65% of Mombasa residents have access to water supply from the Municipal Company, boreholes and well. 6,245 households access their water from often contaminated wells; another 6,941 access water from shallow boreholes. The Water company produces 24% of water demand, 43,000m³ / day against a demand of 182,000m³ per day.

4.2. Key Social Housing Challenges

Houses owned by the government are old, many were built as early as 1945; many are in poor shape and

⁴¹ Mombasa County Government (2013) First Mombasa County CIDP 2013 – 2017. Mombasa

⁴² *ibid*

⁴³ Interview with County officials and field visits

⁴⁴ *ibid*

some have been condemned. There are no tenancy agreements with current tenants; tenancy is therefore informal and in some instances hereditary. Informal sale / transfer of tenancy is rampant; therefore there is real fear that the current residents will not be considered beneficiaries of the proposed county redevelopment scheme as they do not have tenancy agreements.

There is no robust participation in the planning and design of the proposed redevelopment of 'council houses'. The details of the programme are scanty and the programme is shrouded in mystery. The proposed development is vague therefore it is unclear who will benefit in the context of lack of tenancy agreements; how much rents will be charged; how the houses will be allocated; the prices for the sale of the housing units.

People do not want to move because of social networks, lack of relocation plan, access to social amenities, e.g. schools, hospitals, etc. Further, shifting people from current location will impact transport costs, and will also have other economic and social impacts.

Land Titles in Mombasa. Mombasa has long term unresolved land tenure issues especially in informal settlements. This needs to be dealt with. There are also cases of fake titles. WAKF titles are better managed. Absentee landlords are very common; linked with the challenge of long term, historical squatters in areas like Likoni. The question is whether public titles will be transferred to the private sector on commencement of 'the Big Four'. This still remain unanswered.

Litigation. It is noteworthy that the KNCHR, Haki Yetu, Kituo Cha Sheria and Pamoja Trust went to court on the County estates redevelopment programme; they moved to court on the basis of lack of participation in the programme. Litigation was considered to be one of the major challenges for development in Mombasa. It is clear that information and documentation that exist in government offices have not shared with the public. This fuels mistrust between the government and the public. Consultative meetings do not suffice and should not replace effective, structured public participation.

4.3. Specific Challenges of Slums and Informal settlements

There is plethora of challenges facing informal settlements in Mombasa. Most informal settlements in Mombasa do not have titles. There are also very many absentee landlords. They lack basic infrastructure and services. Some are in fragile locations that are not upgradable.

There are no good models for private sector investors in informal areas. There are no new developments targeting informal settlements aside from the work that was done by Kenya Informal Settlement Infrastructure Programme (KISIP). Gentrification is already happening leading the original residents to sell out and move to other slums.

Evictions are common with some 30 to 40 eviction orders having been issued recently. There are also evictions due to infrastructure projects, e.g. pipeline eviction in Chaani, Port expansion, SGR, Dongo Kundu Road in South Coast, Kilifi Exchange, Mombasa Mariakani dualing, Airport Road to Changamwe.



Figure 8: Housing units in the pipeline reserve in Chaani designated for demolition.

Source: Author



Figure 9: Social hall in the pipeline reserve in Chaani designated for demolition.

Source: Author

4.4. The Case of Tudor

County houses are in a state of disrepair. Many do not have water, sewer and other basic services. Though affordable they are a threat to life; in fact most of the houses in the settlement are said to have been condemned. Services have collapsed with the sewer system and the water system not functioning at all. Open areas in the settlement have been grabbed by informal developers who have created informal settlements for rental. Most of the buildings are not structurally sound. But people keep on staying in the units thanks to weak enforcement by County officials.



Figure 10: Dangerous homes with structural defects in Tudor.

Source: Author



Figure 11: Dangerous homes with structural defects in Tudor.

Source: Author

4.5. Low Income Housing Initiatives in Mombasa



Fig. 12 Ziwa la Ngombe Mombasa before and after slum upgrading

Source: ⁴⁵Government of Kenya, 2018

Housing in Big Four. National government has been given 15 acres in Likoni area by county government for development of social housing under 'the Big Four' programme.

The case of WAKF. This is a unique land management system in Mombasa. It is based on Sharia Laws. House owner, not landowner, pays monthly rent to landlords; landlord pays rates to the WAKF Commission. Most of WAKF land has been donated to support Islamic religious and social activities. The revenue is used to maintain social amenities like mortuaries, cemeteries and mosques. WAKF has a concept of protecting poor tenants, i.e. those paying below Kshs 500.

Current Initiatives

- Redevelopment of old council estates has been planned, starting with 3,000 units then scaling up to 30,000 units. Concepts have been done for Changamwe, Mzizima, Likoni, Changamwe, Tudor and Buxton.
- Slum upgrading activities have been going on through the Kenya Informal Settlement Improvement Programme (KISIP) in Ziwa la Ngombe and Kwa Bullo. Land titles have been issued in Ziwa la Ngombe.
- Sewer works extensions have been done in Buxton, Tudor, Khadija and Kaa Chonjo settlements.
- Some cabro works on local roads have been done in a number of settlements, such as Magongo, Majengo and Kisauni.
- There are road expansion initiatives on going in Kisauni, Majengo and Shimanzi.
- County Land Policy has been approved.
- The county has started work on the Housing Policy.

4.6. Proposed Social Housing in Mombasa

County intends to develop old council house in 10 estates. This is to be done through joint venture, where the county brings in land while the investor brings in development capital. The investor will sell and get out. The cost of land is to be determined by the government valuer. A special purpose vehicle (SPV) will be created for the purpose of financing the developments. The partnerships arrangements are yet to be made public.

⁴⁵ Republic of Kenya (2018) National Urban Forum. Country Position Paper. Unpublished.

Interview with county officials indicated that there are investors ready to start development of the 10 sites, namely Khadija, Miritini, Changamwe, Tudor, Mzizima, Buxton, Likoni, Nyerere, Tom Mboya and Kaa Chonjo. The County intends to keep some units to use for affordable rental. Every estate will have social housing component to give room to the lowest income. It is also envisaged that the county owned units will be used to relocate people from vulnerable areas, e.g. Makande, Muoroto. They will also be used to move people living in fragile environments and sewer lines starting with Changamwe and Mzizima.

⁴⁶ Designs for redevelopment of County houses have been one. Developments include one and two rooms for social housing; bedsitter; one bedroom; two, three and four bed roomed units. In some locations they even incorporate a marina. Units are between 12 to 16 storey high with elevators to respond to locational issues and cost of land.

In Changamwe, the county is undertaking mixed development, including a bus station; bus park; mixed use development; market and hotel incorporated into the development. It will include business, mainly stalls. For social housing it will have 2 rooms and 1 toilet at a cost Kshs 900,000. The developments accommodate rent to own and outright purchases.

The service costs have not been factored into the scheme, including service chutes for garbage, power for lifts; standby generators, lifts maintenance, water, sewer system, etc. This also includes repairs as a result of wear and tear. When services are factored in these developments will be out of reach for the intended occupants of council houses.

The county intends that tenants will continue to pay the rents they are paying now towards long-term purchase through a rent to own scheme. This does not seem realistic though. The calculations are not adding up; payment of monthly rents of Kshs 900 shillings will translate into over 100 years to complete the mortgage payment; even with interests as low as 5%. The county says though that the sale will not attract any interests and tenants will be given the first right of refusal. However, the city county has no legal tenants and no tenancy agreements with the sitting tenants and there are real fears of evictions and corruption.

⁴⁷ A two-year compensation of Kshs 540,000 has been promised to tenants during the construction phase to cater for need for relocation. This translates to Kshs 15,000 per month. However, there are many questions as to how the beneficiaries will be identified as the County has no tenancy agreements with majority of the residents. The entire resettlement is to be done by the contractor. This evokes more questions than answers given private sector lack of experience in such complex socio-economic and political processes. Further the fact that the county expects the developer to recover his costs from the project also leaves a lot of questions unanswered. This may not materialise in the context of lack of agreement; therefore tenancy regularisation is key. Further, this amount is so close to the purchase price of 1 bedroom unit, at Kshs 600,000. Wouldn't it be more prudent to use this amount as part payment for the residents towards home ownership? Overall the logic does not seem to add up at all.

There are also questions as to value for money for the tax-payers. The programme has been criticised for lack of proper feasibility. It has been equated to a mechanism of transfer of prime state assets to the private sector.

⁴⁶ Actual plans and three D impressions were shown to the research team by County officials.

⁴⁷ Interview with county officials and corroborated through interview with old estate residents and CSOs.

4.7. Concerns About Social Housing in Mombasa

There is a major concern about social housing in Mombasa. They include the following

- i. The county Government has interpreted it as provision of one or two rooms in redevelopment of well-located old council houses into high-rise development. The high-rise solutions will result in very high expenditure by the residents.
- ii. The rent to own option is not realistic with the current rents being paid resulting in nearly 100 years of payment.
- iii. The county does not have up-to-date tenancy agreement with the occupants of council houses; thus the project will end up evicting a number of these.
- iv. This interpretation does not include slum upgrading; which has been left to the national programme, KISIP. Social housing should focus on slum upgrading.
- v. There are real concerns about protection of the public interest in the developments; as currently conceived the development favours the private investors at the expense of the public.
- vi. Information is key and should be shared with all the stakeholders.
- vii. There should be a distinction between consultation and public participation. The latter enables the public, especially the project-affected persons to input into and shape the development; the former is simply passage of selective information to the public.

4.8. Recommendations for Improvement of Social Housing Development in Mombasa

Based on the findings from the field study in Mombasa and in conversations with county officials, national officials, experts and communities and civil society groups the study makes the following recommendations:

- i. **Regularise tenancy agreements.** There is urgent need to regularise tenancy agreements with the current residents of the old council houses otherwise the promise to compensate them will be a lie based on the fact that they have no legal relationship with the county. Regularisation of this agreement will significantly reduce the residents' fears of forced evictions and real fears about corruption in allocation of units in the proposed developments.
- iii. **Give realistic options for rent to own.** As shown earlier, the rent to own option is unrealistic, even in a multigenerational payment situation. The county should develop realistic options if indeed it is serious with this route of home ownership. The payments will have to be significantly higher than what the residents are paying now. Further, the periods have to be reduced so that the debt is not transferred to the next generation; who should have the right to determine whether they want to get into debt or not.
- iv. **Provide affordable rental options.** The county should consider affordable rentals for those who will not be able to get into the rent to own and mortgage options. Further, there is a category of residents who are not interested in ownership and just want secure rental accommodation, which is affordable in desirable locations. This option of social rental needs to be explored.
- v. **Protection of public interest.** The proposed housing development clearly shows how the private sector interest will be protected. Just like the national programme of 'the Big Four' it is scanty on details of how public interests will be protected. This needs to be worked out. There are real fears that these development might just be mechanisms of transferring well located public land to private individuals and using public finances to guarantee the same individuals funds and ensure their investment are risk free.

- vi. **Focus on slums and informal settlements upgrading.** The counties should focus on improvement of their slums and informal settlement areas. These are the greatest expression of housing needs. This group must be the priority group in the counties programme to realise its mandate on provision of housing as per the Constitution of Kenya 2010. Social housing therefore should focus on slum upgrading; not on old council housing.
- vii. **Limit evictions and tenure insecurity.** There are already a number of cases of threat to evictions in Mombasa relating to development of infrastructure. Forced evictions compromise security of tenure for the poor. The county should be proactive, as infrastructure and housing developments inevitably displace residents. There is need to have a systematic approach that is in line with the Constitution of Kenya 2010 and international best practices.
- viii. **Shift from consultation to public participation.** So far the county is doing a good job consulting the private sector, civil society and communities. The county gives selected information to these groups. However, these groups are not shaping the counties planned housing programme in any way. This can only happen when effective public participation mechanism is put in place. Currently this is not the case.
- ix. **Entrench the good practices in relevant policies, land, housing, slum upgrading, etc.** The county is embarking on a housing policy. The county has completed its land policy. There is need for the county to complete relevant policies to anchor housing development and also top put existing policies into practice.

5.1. County Social Housing Facts

⁴⁸The population of Kisumu County is 1,224,531. Out of this 569,052 dwell in Kisumu City. Other urban centres include: Maseno 4,172; Ahero 10,837; Awasi; 3,144; Muhoroni 18,712; Chemelil 9,969. The population is predominantly rural with those living in rural areas depending entirely on land as the natural resource for subsistence and economic purposes. Kisumu town has 30% unemployment; 52% are employed in informal sector. Average monthly wage is 3,000 – 4,000 high levels of absolute poverty at 49% compared to national average on 29%⁴⁹. The county has 226,719 households⁵⁰. Table 1 below shows the state of infrastructure and services in the county.

Table 1: Urban Infrastructure and Services in Kisumu

	Services	Status of provision
1	Residential water supply	30%
2	Sanitation	20%
3	Flood control	20%
4	Solid waste disposal	20%
5	Adequate housing	15%
6	Titles	60%
7	Informal settlements	40%
8	Peri urban informal	20%
9	Mains electricity connection	50%
10	Passable roads	30%
11	Street lights	70%

Source: Author, after Kisumu County Urban Institutional Development Strategy (CUIDS) 2018

⁵¹The mean land holding size in the county is 1.6 acres while the mean agricultural parcel is 1.0 acres. Due to population pressure, the small parcels of land continue to be subdivided into uneconomical sizes. The percentage of land with title deeds is 61.3 per cent. The land in the county is largely owned by individuals (78.8 per cent), 10.7 per cent of it is rented or leased, 4.9 per cent clan/family owned and 0.4 per cent is communally owned.

The city is guided by various plans, namely: ISUD (2014); Spatial Town Plan (2015); County Integrated Development Plan 2018-2022 and the current Annual Development Plan (ADP 2018/19). There are a number of county levels policies and legislation that guide development. These include: ISUD; County integrated Solid Waste Management Act; public Participation Act; the Zoning Policy; the advertisement Policy; the Way leave Policy; Transport Policy; the Informal Trade Policy; the Development Application Guide Policy. Others include the Environmental Management Plan; the Zoning policy; the Disaster Management and Response Plan; the Sustainable Development and informal Commercial activities guide; the Urban Agriculture Regulation and

⁴⁸ See Kisumu City (2018) Kisumu County Urban Institutional Development Strategy (CUIDS) 2018; see also Government of Kenya (2016): Kenya National Bureau of Statistics, Statistical Abstract 2016

⁴⁹ Kisumu City (2018) Kisumu County Urban Institutional Development Strategy (CUIDS) 2018, pp3

⁵⁰ Kisumu County Government (2013): Kisumu County First county integrated Development Plan, 2013 – 2017, pp 11.

⁵¹ Kisumu County Government (2013): Kisumu County First county integrated Development Plan, 2013 – 2017.

the Disaster Management and Response Plan.

⁵²In terms of construction materials daub and wattle construction account for almost half of the homes at 49.5%. semi permanent house, i.e. daub and wattle with cement account for 21.2%; clay bricks and concrete blocks 21.2%; while stone houses are account for only 3.2%. On flooring earth is the main material at 55.2%; cement screed at 42.4% and tiles at 1.5%. Roofing is mainly by corrugated iron sheets accounting for 85%. There are still some grass-thatched roofs at 9%. 1.7% are clay tiled roofs and 1% concrete roof.

⁵³Only about 40% of all Kisumu residents have access to any form of housing finance, including banks, cooperatives, relatives and friends, shylocks, employers, community savings groups and credit schemes, micro-finance, etc. 60% have no access to any form of housing finance. This challenge is as a consequence of a number of issues, namely: irregular incomes (29%); high interest rates (24%); lack of information (27%); lack of down payment / equity (12%); lack of security (6%) and eligibility (5%).

5.2. Key Social Housing Challenges

Land for housing development.

⁵⁴Most land in Kisumu County is freehold (78.8%), leasehold is only 10.7%, clan owned land at 4.9% and 0.4% communally owned. Public land is 5.2%. 61% of the land in the county has title deeds. The 39% with no title deeds have insecurity of tenure. This limits ability to develop permanent housing solutions.

Land for housing development remains a major challenge in terms of availability and access. Kisumu is notorious with fake titles and multiple land sales. Nobody trusts land titles in Kisumu. This slows down investments.

There were illegal sale of council houses. ⁵⁴ of Milimani and Tom Mboya estates were municipal, now sold to individuals/ grabbed. ⁵⁵The Ndungu report indicate that over 300 houses were grabbed and sold in this way.

Land that could have been used for housing in areas like Kanyakwar, Kibos, Mamboleo, Ahero, Nyamasaria, has been encroached, even where the communities had been compensated. Traditional practices like subdivision of land for 'golo dala', lack of a land bank and lack of political goodwill in the past regimes have impacted negatively on housing development.

Mismatch between demand and supply

There is mismatch between supply and demand of housing for the low income. Initiatives by NHC in Kibuye Kanyakwar developed 2 bedroom units for 4.6 million. This is clearly out of the reach of the low income. The current supply targets the middle income yet the biggest need for housing is in low income and the urban poor. Thus results directly in expansions of slums and informal settlements.

Council houses

Old council houses are spread out and cover various classes in various estates around the city. They are in a state of disrepair. Rents charged for council houses is too low, Kisumu County Finance Act of 2014 increased rents by Kshs 1,000 shillings. Meanwhile those who had access to these houses sublet them for as much as Kshs 15,000. Director of Housing has an inventory of council properties. This needs to be consolidated and any houses that were illegally acquired needs to revert to the county.

⁵² Republic of Kenya, Ministry of Lands, Housing and Urban Development, KISIP (2018) Kisumu County Housing Policy, Integrated Issues Report. Unpublished.

⁵³ Ibid, pp 14

⁵⁴ Ibid.

⁵⁵ Republic of Kenya (2004) Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land. Nairobi, Government Printer.

Weak enforcement to prevent slums

Most developments in Kisumu town, especially on the lower income segment are not approved. Approval process linked to titles and land rates; which many residents don't have, so they have just ignored development control, thereby causing the county income loses. Rather than leave these people to their own devices in development of housing; the county should have a more proactive development control and indeed planning approach in these informal areas.

This is compounded by lack of planning and enforcement of plans; lack of enforcement of development control. The situation is so bad that in estates like Migosi, which were site and services, with own development control requirements people nowadays build on top of sewers.

Litigation

Court processes are common in Kisumu. They are used to stop improvements in the housing sector, here are some examples:

- Removal of asbestos from council housing to comply with WHO regulations;
- Migosi has 160 cases of encroachment into road reserves, making it difficult to open up the road in the estate;
- In Tom Mboya estate there are cases challenging ownership of plots and houses;
- Illegal structures in council houses e.g. in Ondiek, Makasembo, Kibuye, Lumumba; MCAs were accused of ganging up to stop demolitions
- Housing department is understaffed with only 5 members of staff, including the director and no facilitation, vehicle, etc.

5.3. Specific Challenges of Slums and Informal Settlements

⁵⁶40% of the population of Kisumu City live in slums and informal settlements, e.g. Nyalenda, Manyatta and Obunga, with freehold land tenure. Other high-density informal settlements include: Okore, Arina, Lumumba, Ondiek, Mosque, Kibuye, Pembe, Tatu, Kaloleni and Nubian. Slums such as Nyalenda and Obunga are unplanned and lack basic infrastructure and services. In Obunga people have been on top of drains; flooding is quite rampant. Manyatta is partially planned. Majority of the slums are located in public land. There are also some in private land, developed as a consequence of illegal subdivision into parcels, which are then sold informally. Houses are semi permanent. 76% of the units are single and double rooms. 20.5% are mud and wattle construction.

The slums lack basic infrastructure and services. Garbage collection problematic, with skips being vandalised in areas like Manyatta. These slums also suffer high levels of insecurity and violence.

Kaloleni slum redevelopment was stopped because of challenges locked because of historical injustice. Nubians were to be given titles but this is yet to happen. This has affected infrastructure development, with roads being so narrow that fire engines cannot pass during the frequent fires in the slum.

Other general challenges for slums and informal settlements include:

- Too many freehold properties therefore difficult to impose development control;
- Slums migrating to rural areas such as Ahero, Rabuor, Muhoroni, posing future development challenges; this needs to be nipped at the bud before it becomes an epidemic.

World Bank civil service housing targeting estates like Argwings and Arina have also been turned into slums

⁵⁶ Kisumu City (2018) Kisumu County Urban Institutional Development Strategy (CUIDS) 2018

through years of neglect. The same fate has befallen World Bank site and services schemes 1979-89 like Migosi and Tom Mboya. The services and development control structures for these areas have collapsed.

Public participation is weak and need to be structured differently for the voices of informal settlement dwellers to be heard.

5.4. The Case of Bandani



Figure 13: state of basic services in Bandani, Kisumu

Source: Author



Figure 14: state of housing in Bandani, Kisumu

Source: Author

Bandani has a population of about 20,000 people. The settlement was mapped 10 years ago. There is no planning and no development control in the settlement. This is partly attributable to the fact that all land in the settlement is freehold. There are many illegal sub-divisions and sales, therefore it is difficult to relate the information on the ownership documents and the reality on the ground. Some plots are as small as 4 metres

by 6 metres.

Most housing units are semi permanent and mud houses. Storm water drainage is poor. The slum has neither sewer lines nor proper roads.

In 2006, Pamoja Trust undertook mapping of the slum, but the effort did not include planning. Attempts to do housing through cooperatives failed. This was because the people of Bandani and Nyalenda, who had joined the programme through NACHU found the houses way too expensive for them to afford.

Many plot owners find themselves in a difficult position; where they have no access to finance to improve the housing satiation and on the other hand find it difficult to sell their land for those who can afford to develop; since some of these properties are family / communally owned. Besides some do not have titles. Thus they just sit with the hope that somewhere a long the line a solution will come.

5.5. Low Income Housing Initiatives in Kisumu

Opportunities. There is good opportunity to use existing land through PPP. A number of informal settlements have security of tenure. This is a good starting point for slum upgrading. There is further opportunity for revenue generation through proactive development control in this informal areas.

Current Initiatives

Some of the initiatives that are on going in Kisumu City include:

- Kisumu Urban Programme supported by the French, which is improving roads in the city and some informal settlements to tarmac grade such as Obunga;
- There are also KENSUP programmes in the city;
- KISIP ending in May. Its sewer construction programme is 21% complete; roads 50% complete. Their main focus in Kisumu was Obunga slum;
- County developing housing policy county and city to be completed in May;
- City has developed the Kisumu Urban Institutional Development Strategy (CUIDs);
- Department of Housing is developing a five year strategic plan;
- There are cleaning programmes in Kibuye and Lumumba;
- Land use zoning on-going but facing challenges;
- There is a decision to create land bank with PPP in mind;
- There is a proposal to have a light rail system linking Kisumu City to Ahero, Muhoroni, Chemelil and Maseno; and
- Maseno and Ahero local development plans is planned to start soon, the projects have been advertised and there is a call for expression of interest.

5.6. Proposed Social Housing in Kisumu

The county received a letter from the ministry and identified sites for low income housing in Arena, Makasembo and Nyalenda estates. The county is aware of the pilot scheme of 8,000 housing units in Mavoko. The county expects that Project Affected persons and Relocation Action Plans will be done as per World Bank requirements. Further the county has set aside 5 acres in Mamboleo to be used as a decanting site for 'the Big Four' low-income housing development.

5.7. Concerns About Social Housing in Kisumu

Kisumu concerns around social are more general, since the county government has not started implementing any specific programme on social housing:

- i. There is need for proactive and creative development control especially on freehold land to limit the uncontrolled growth of slums and informal settlements;
- ii. Unchecked fragmentation of urban and rural land is not only affecting provision of adequate housing in urban areas but also food security in the rural areas;
- iii. Irregular allocation of public land and housing need to be reversed and legal action taken against the culprits;
- iv. Kisumu has major cultural bottlenecks to housing, including, the practices such as 'golo dala' – establishment of new homestead in towns; burial in the said homesteads; subdivision of land for inheritance purposes. There is need for awareness and proactive legislation to stop these practices.
- v. There is need to develop appropriate instruments to control development on freehold lands and informal settlements.
- vi. Areas of slums and informal settlements lack basic services. Even before thinking about shelter; there is need to provide infrastructure and services in these areas. This should be accompanied by land use planning and security of tenure through titling.
- vii. There is a major bottleneck on housing finance. The county should explore creation and support of credit schemes that can work for low incomes groups and enable them access housing. This should not be left to civil society alone; they are overwhelmed.

5.8. Recommendations for Social housing in Kisumu

There is an acute shortage of housing for people with low or no income at all. Work with landlords to provide housing. Do not turn informal renters to landowners.

The focus should therefore be on informal settlements. Expand the project to include provision of infrastructure and services. Plan informal settlements. Start enforcement in informal settlements, get advise on the matter of the leases establish appropriate legal instruments.

Strengthen implementation of plans and development control, including strengthening of enforcement; not just in informal areas, but also in county houses. Take a proactive approach to development control, as an initiative to those with leaseholds.

Consider housing holistically, both rural and urban; have practical approach to avoid development of rural slums; already these house 20% of Kisumu residents.

Continue investment in infrastructure and services investments in informal areas

Consider linking housing with economic activities and investments, since most people in Kisumu live in poverty (49%) are unemployed or very low income

Explore practical incentives to increase stock of low-income areas, including proactive development control, encouraging SACCOs, revolving housing fund, etc.

OVERALL CONCERNS ABOUT THE STATE SOCIAL HOUSING PROGRAMME

6.1. No common understanding of social housing among state agencies

There are contradictions in the State's Attempt to Provide Social Housing. The only issue that is clear is the fact that state intends to provide one and two roomed units under this scheme. It is also clear that the state is targeting those earning from Kshs 0 – Kshs 14,999. In Nairobi interventions in slums is considered under this scheme; in Mombasa redevelopment of old council houses has also been considered. Slum upgrading generally is missing in the Big Four. While it is relatively clear how the state intends to finance low-income housing, it is unclear how slum-upgrading schemes – the real social housing - will be funded.

6.2. Citizens Understanding of Social Housing

The poor consider social housing to be slum upgrading. In this regard they see contradictions in the green field, high-rise development as an approach to provide social housing. The target is also wrong, e.g. people living in old council homes. There are questionable tenure and financial models. In Nairobi, there are concerns about notices that were delivered to residents of Kibera, Mariguini and Kiambu about the planned development; the key question was the fact that due process seemed to have been ignored.

6.2. No lessons from previous slum upgrading efforts

The Kenya Slum Upgrading Programme (KENSUP) has developed low-income housing in Kibera. There are also the Railway Relocation Development and the Kenya Informal Settlements Infrastructure Programme (KISIP). It is unclear how lessons from these initiatives have been used in the proposals under 'the Big Four'. For example, the Kibera Soweto scheme produced particular sizes of units; modifications had to be made to accommodate businesses on ground and first floors; it produced particular densities with related challenges; what insights can we learn from these environments in light of the proposed high rise developments in 'the Big Four'.

6.3. No money for social housing

While the funding mechanisms for low income housing have been thought through a great deal and various instruments that are meant to incentivise the private sector allowed for; the same cannot be said of the social housing in slums and informal settlements. Sustainable funding for the same need to be explored by national and county governments, so that we overcome the tendency of leaving this sector to development partners. The poor are also our citizens and are entitled to housing as per the Constitution.

6.4. Redevelopment of old council houses will not deliver social housing

This is one area shrouded by mystery both in Nairobi and Mombasa. Cost and location of land for Council houses development will make these naturally expensive. The level of services required in high-rise development would mean that even if residents were to pay Kshs 3,000, the cost of services will be upwards of Kshs 10,000 in addition to maintenance requirements of high-rise developments. Further, the counties do not have up to date tenancy agreements with current residents. This needs to be regularised before the development can commence to prevent legal challenges.

6.5. Market based approaches given priority instead of slum upgrading

'The Big Four' clearly prioritises market based approaches for affordable housing and council housing. Social

housing does not seem to have been thought through at all. Effort needs to be made to bring the two approaches to delivery to same level.

6.6. No consultations with beneficiaries

There does not seem to be appropriate and adequate participation of project affected persons (PAPs). Some consultations have happened but these are inadequate given the level of information shared. The wishes of the PAP have also not been considered. Notices that have been given to residents in Nairobi for eviction are areas of concern in terms of due process.

6.7. Legal and Policy Vacuums

Some of the contradiction in approaches, interpretation of the housing problems and the nature of solutions offered can be attributed to the fact that Big four is happening in the context of national and county level policy vacuum. National government has not yet updated the old Housing Act 2004. County governments have started some policy developments supported through KISIP and the World Bank, but these are in their early stages and are unlikely to influence the implementation of 'the Big Four'.

6.8. Some of the Pilot Sites not Appropriate

There is need to develop a criteria for selection of settlements to limit the obstacles to implementation. Trying to undertake programmes in settlements with complicated land issues will result in failure. A settlement like Kiambiu calls for many other processes relating to land tenure security before social housing can be developed there.

KEY RECOMMENDATIONS ON THE STATE SOCIAL HOUSING PROGRAMME

It is note worthy that the ambition to provide 1 million houses is unprecedented in Kenya. It will definitely improve access to housing for the low income especially in terms of development of new housing stock for the affordable market sector. This is laudable regardless of the challenges that have been highlighted in this report. The state should move with speed to provide these homes so that the promise does not remain a pipe dream.

7.1. Recommendations for National and County Governments

7.1.1. Affordable Housing – Benefits to End User

The delivery framework being explored by the state is through the private sector. Several measures, policy, legislative and strategy changes, safeguards, guarantees, incentive schemes, including buy back options by government are being put in place to ensure private sector entry into affordable housing market.

However, one does not see similar determination to protect the end user or the buyers of units. There is need to ensure that benefits that accrue from these developments are transferred to the end user. There is also need to look at the small-scale housing providers and housing cooperatives as these are the ones providing the bulk of the current housing stock for this sector.

7.1.2. Social housing should focus on slum and informal settlements

Conversations with experts indicate that there is need to define what social housing entails before attempting to provide for it. Further, there is need to different social housing which in many jurisdiction is state provided housing for the lowest income groups, as is the case in the UK or state supported peoples housing process, as the case in South Africa. There is need to distinguish the state and people driven social housing from the market driven low-income housing. Currently this conflation of social housing and market driven low-income housing is resulting in weak solution to the challenges of social housing.

7.1.3. Social housing should focus on rental

Social housing world over is rental. The problem though, seen in countries like the UK and Germany, is management of rental stock by public authorities, which remains problematic. Therefore there is need to create independent agencies to manage rental stock on behalf of county governments. The rent to own option is good. But the core of social housing should be affordable rental. This can be provided by the state or by social entrepreneurs with appropriate incentives from the state. Incidentally this is the opinion of both government officials, NGOs and community members. Current the Big Four has a focus on sale; not all poor people are interested in home ownership. Sometimes home ownership can limit mobility of individuals in the employment market.

7.1.4. Quality Public Participation, especially by PAP

The study found out that indeed there is on going consultation with communities, civil society and the private sector. However, because of lack of detailed information and incorporation of opinions from the communities and the civil society, there is need to structure public participation to enable meaningful inputs into these development programmes. Further, access to adequate information on these development by the public will limit opposition to these programmes, including litigation that have tendencies of dragging the state programmes.

7.1.5. Should be a fair, open process for identification of PAPs and Beneficiaries

There is need to have data on project affected persons and update the rental agreements with occupants of council housing and be updating these accordingly. Without these corruption will set in and displace the intended beneficiaries of these projects.

7.1.6. Threats of Forced Eviction

The state housing programme is already associated with threat of evictions with notices issued to residents of Kibera, Mariguini and Kiambiu in Nairobi. There are many other eviction notices by different government agencies from the National Highways Authority, through the Kenya Pipeline, Kenya Ports, Counties, etc. Development of housing should not result in evictions since that is what it is meant to deal with in the first instance. The government together with communities and civil society should find solutions anchored in the Constitution, Policies and international best practice to avoid illegal evictions of the poor as a result of housing or any other development for that matter. Further, the state should ensure that there is tenure security as per various guidelines⁵⁷.

7.1.7. State funding for social housing

As discussed extensively in this report, there is need to clarify how the state will fund social housing. If it is through the private sector then the issue of protection of low income renters come in. If it is through direct funding by the exchequer then the questions of responsibilities between national and county government in regard to housing must be considered. Currently there is clearly a funding gap; which sometimes imply that we leave the issues of the poor to development partners. This need to be worked in adequate detail, even as government intends to start these programmes in Mariguini, Kibera Soweto and Kiambiu.

7.2. Recommendations for CSOs and Communities

The government has already laid forth its housing programme in the Big Four. Further counties have already indicated their plans, mainly targeting redevelopment of the old council estates. Communities and CSOs should therefore engage the national and the county governments on all aspects of these programmes as highlighted in this report. Below are some of the areas that need work by communities and CSOs.

7.2.1. Avenues of collaboration

Government has already shown interest to collaborate with various sectors to deliver on housing under the Big Four. CSOs and communities should explore avenues of collaboration with government on the proposed programmes as mandated by the Constitution.

7.2.2. Regularisation of beneficiaries

CSOs and communities should play a proactive role in the regularisation of beneficiaries including starting an enumeration processes in areas where affordable and social housing have been planned. There is a further need to involve government in these enumeration processes, with a view to having a unified, regularised list of beneficiaries.

7.2.3. End user benefits

CSOs and communities should start engaging the government on how the end user will benefit from the subsidies and other incentives that are now directed at the private sector, especially in the 'affordable housing' segment.

⁵⁷ For Example Ministry of Transport, Infrastructure, Housing and Urban Development (2017) *Guidelines for Land Tenure Regularisation in Informal Settlements (Draft)*. Unpublished.

7.2.4. Propose alternatives

It is recommended that CSOs and communities propose alternative housing development models and examples for the government to consider, e.g. cooperative housing, incremental housing, etc.

7.2.5. Advocate for informal settlement upgrading and affordable rental

There is need to advocate for slums and informal settlement upgrading, including securing tenure for all, as the core of social housing in the Kenyan context. Further CSOs and communities should advocate for affordable rental housing, especially for those who cannot afford direct ownership or rent to own options and also for those who would prefer to rent for various reasons, including mobility of employment opportunities and erratic incomes.

7.2.6. Demand effective public participation

It is clear that there is no robust and effective public participation in the current housing initiatives under the Big Four. There is need for CSOs and communities to demand for effective public participation as envisaged in the Constitution, legislation and various guidelines.

7.2.7. Forced Eviction / Threats of evictions

CSOs and communities should plan clear mechanisms to deal with forced eviction, threats of evictions and other legal violation by the government or private sector that are likely to happen as a result of the proposed developments under the Big Four and on going infrastructure developments.



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LIST OF INTERVIEWEES

Kisumu

1. HE Gov. Anyang Nyong'o
2. Nerry Achar – CEC Land housing and Urban Development
3. Dorris Ombara – City manager
4. George Kopala
5. Arnold Guya – Director Housing
6. Steve Gome – CO Land Housing and Urban Development
7. Cheri Adhiambo Oyugi – Special Programmes
8. Bernard Ojwang' – Director Environment
9. Kevin – Engineering
10. Sule – Director Planning
11. Harriet Hongo – HR Director / Deputy
12. Bonny Otieno – PA
13. Dorothy Onono – Director Social Services
14. Samuel Olimba – Director Inspectorate
15. Osborn Odero – Public Health Director
16. Emmanuel Oketch – finance Director
17. Celestine Owen – Director Education
18. Osanya – Chairman Kisumu informal Settlements
19. Ruth Helida
20. Stanley Audi
21. Michael Odongo
22. Fatma Hamisi
23. Beatrice Achieng'
24. Apiyo Lawrence

Mombasa

1. CO Housing - Jabu Saleh
2. Suleiman Moshi Jaffer – Director, Physical Planning
3. Mahmud Muhammed
4. Richard Merzuk
5. Martin Ogola
6. Nekesa
7. Pauline Vata- HakiJamii
8. Paul Mbatha – Former Chairperson Tudor,
9. Coordinator Interreligious network
10. Penuel Nyagaka – Mombasa Local Urban Forum
11. Nahshon Njoroge – Physical Planning
12. Najib Shamsan- WAKF Commissioner
13. Wanjohi – Land registers
14. Zubeir Noor – Commissioner
15. Prof. Hamadi Bogi – WAKF Chairperson
16. John Paul – Haki Yetu, Coast Land non-State Actors
17. Sam Ngao – Chairman, Chaani
18. Anzaya - Chaani
19. Samuel Odhiambo – sec, Chaani
20. Scolastica Ndola - Chaani
21. Fatuma Rashid - Chaani
22. Esther Mwenje - Chaani
23. Hassan Juma - chaani
24. Hesbon Amolo Amolo - chaani
25. Joseph Oduor - chaani
26. Patrick Ochieng –land and Housing Coalition
27. Mativo
28. Grace Oloo
29. Simon Kate – CSO Coordinator Bakstan
30. Community members.

Nairobi

1. Faith Achieng – Kituo
2. Sandra Mwarania – Amnesty International
3. Kiogora – Amnesty International
4. Naomi – Amnesty International
5. Humphrey Otieno – K.S.M
6. Esther Ndinda – Groots
7. Faith Ochieng – K.C.S.
8. Etyang Kamukam – Pamoja
9. Lucy Ndiho – CSUDP
10. Ezekiel Rema – Muungano
11. Judy Kawira – Haki jamii
12. Orlando Samuel – Haki Jamii
13. Jane Anyango
14. Salma Sheba – Pamoja Trust
15. Daniel Ondieki – Pamoja Trust
16. Steve Ouma – Pamoja Trust
17. Sam Odhiambo – Pamoja Trust
18. Josiah Mwangi – KURA, Assistant Director Social safeguards
19. Ayuo Keta – Pamoja Trust
20. Miruri Sally – Pamoja Trust
21. Fatma Juma – Pamoja Trust
22. Diana Wachira – Pamoja trust
23. Jeckonia – Pamoja Trust
24. George wasonga – Civil Society Urban Development Platform
25. Wainana, PhD– Consultant
26. Choi – Tangaza College
27. Henry Ochieng – Kenya Alliance of Residents Association.
28. Judith – Haki Jamii
29. Samuel Ikua – Mazingira Institute
30. Agnes Nduta – Marigoini
31. Veronica Binsari – Marigoini
32. Dennis Onyango – Muungano ya Wanavijiji
33. Ezekiel Rema – Muungano ya Wanavijiji
34. Patrick Ndegwa – Dam
35. Peter Bidu
36. Delphine Gitonga – Kibra Soweto Zone B
37. James Onyango – Soweto East
38. Wiltah Nyabate – Soweto East
39. Chris Matayo – Kiambiu
40. Tom Ogirri – Kiambiu
41. Lucy Gakuru – Kiambiu
42. Joshua Adegu – Westlands
43. Mathu Kahiga – Westlands
44. Ebby Kageha - Winsrea, Westlands
45. Sally Mirori – Pamoja Trust
46. Gerald Wafula – Pamoja Trust
47. Fatma Juma – Pamoja Trust
48. Robert mwaniki – Marigoini
49. Peter Githinji – Mariguini
50. Daniel Ondieki – Pamoja Trust
51. Cassius Kusienya – National Director, Housing, head of KISIP
52. Thomas Ogutu – Assistant National Director, Urban Development
53. Ezekiel Ndukui – Assistant National Director, Housing
54. Charles Konyango – National Director, Urban Development



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PO Box 11356 - 00100 Nairobi.

Tel. +254 726 527 876

E-mail: esrc@hakijamii.com

Website: www.hakijamii.org