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AN EVALUATION OF THE PROPERTY VALUATION PROCESS FOR LOCAL GOVERNMENT PROPERTY TAXATION, NAIROBI CITY KENYA

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ABSTRACT
This study evaluates the valuation process for property taxation in Nairobi City County. Valuation process is an important element of the property tax administration process because it links the market value of the property with the tax paid. Where the valuation process is unable to capture the full market value of the property, the local authority does not get adequate revenue from property taxation. Literature review of best practices in property valuation process in the world was done. Data was gathered through interview of officials in the Land Valuation Directorate of Nairobi City County to evaluate the property valuation process. Documentary search was also done of the valuation process in the County. Data analysis was done through thematic analysis. The study established that Nairobi City County relies of parcel-based valuation method to value properties in the City and has not yet adopted mass valuations, it uses outdated valuation registers that are over thirty years old and does not carry out regular revaluations, there is no independent body that monitors the valuation process in the County. The existing legislation has not promoted best practices in the valuation process. All these issues have resulted in the County not fully exploiting the revenue potential in property taxation in Nairobi City.

Key words: *Property taxation, Property valuation*

1. INTRODUCTION

Property taxation is a form of taxation on wealth (Ulbrich, 2011, IAAO, 2010). Wealth is the market value of accumulated assets acquired through saving and investment of income acquired through gifts or inheritance (Hyman, 2011). Ownership of property is mainly for future anticipated incomes. The use of property as collateral for loans indicates that there is a link between wealth and property ownership (IAAO, 2010). Property includes land and the improvements that are on the land and is also known as real estate (Hyman, 2011). Property taxation is an ad valorem tax imposed as a certain percentage of the assessed value of property and it is an annual recurring tax (Ulbrich, 2011, IAAO, 2012).

Property taxation at the local government level is a major source of local government revenue (Balh and Linn, 1992). Revenue generation is the main objective of property taxation (Bahl and Linn, 1992; Ulbrich, 2011). Through this objective, property taxation redistributes goods and services from the private sector to the public sector (Hyman, 2011). Governments require the revenue for provision of services both at the national and at the local government levels.

This is important for service provision by local government especially with the ongoing devolution of power and resources to the County Governments in Kenya. The property tax is advantageous as a source of local government revenue (Balh and Martinez-Vazquez, 2007; Cornia and Slade, 2005). The tax base is immobile unlike income tax where the tax payer can move locations with lower tax rates; the revenue is stable and reliable and the local government can budget on it; property taxation can be used to capture increases in property values that result from infrastructure developments especially in urban areas.

However, in most developing countries, property taxation has been neglected as a source of revenue and accounts for less than 0.5 % of the gross domestic revenue for countries in Africa (Fjeldstad and Heggstad, 2012). The challenges faced by property taxation in Africa include inadequate property tax registers and valuation rolls and lack of political support to improve revenue generation. In Nairobi City, property taxation is a major source of local government revenue. In the financial year 2015/2016 the City collected Ksh. 3,110,292,526 from property taxation against a total of Kshs. 11.71 billion raised from own source revenues (ROK, 2016). This comprised of 26.5% of the total own source revenue collected. Though the tax forms a huge percentage of own source revenue, it has not been fully exploited owing to poor tax administration processes especially in the property valuation process.

Nairobi City is the capital of Kenya. It is the location of most foreign embassies, international companies, and organization. It also has a vibrant industrial sector with industrial land use zones. This has resulted to increase demand in properties for residential, commercial, and industrial uses. Nairobi has experienced tremendous growth in real estate and increased property values.

Table1: Land values in some selected areas in Nairobi

Location	**1982 (land value p.s.f.)**	**1992 (Land value p.s.f.)**	**2001 (land value p.s.f.)**	**Percentage increase 1982-2002**
Central Business District	15	175	400	2566
Langata Shopping Centre	8	100	400	6150
Yaya centre	8	120	500	4900
Karen Shopping Centre	7	30	80	1042

Source: Adapted from Nzau (2003)

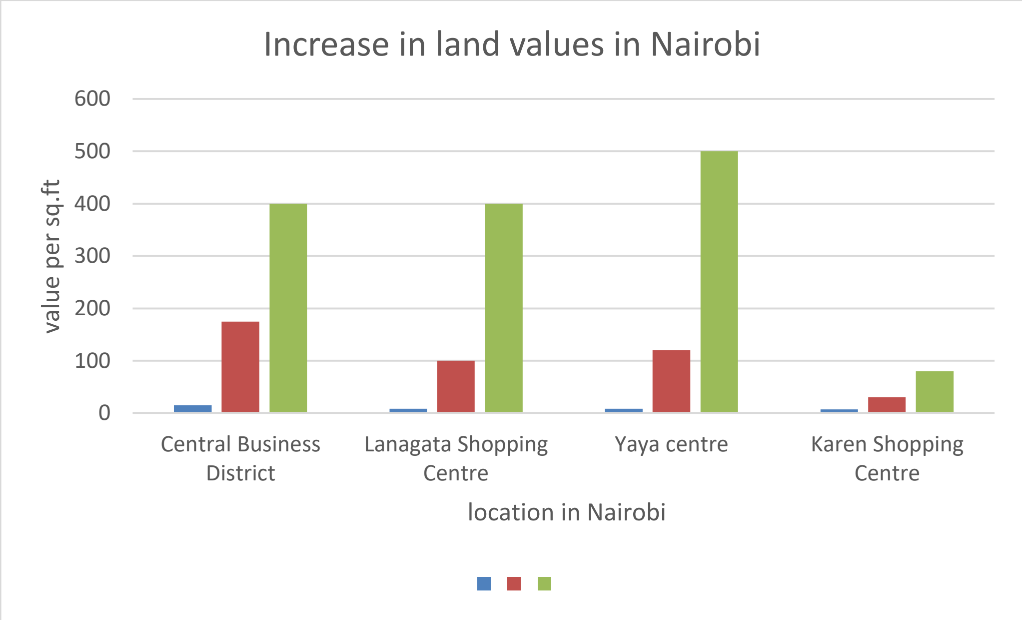

Plate 1: Increase in land values in Nairobi

Source: Author construct from Table 1 above

A vibrant property valuation system should aim to capture the increase in property value for increased revenue generation.

The main objective of this study was to evaluate the valuation of the property tax base in Nairobi City County. This was done through the following specific objectives:

i. How is the valuation of the property tax base in Nairobi City carried out?
ii. How does the valuation process in Nairobi compare with the best practices in the world?

2. LITERATURE REVIEW

Valuation of property for taxation purpose should be clearly spelt out in the tax policy. UN (2005) gives some of the requirements of the policy which are discussed in this study. They include:

a) the beneficiary of property taxation. In this study, property taxation under the local government is discussed.
b) the subject of taxation, whether land as if vacant or land and improvements;
c) the property valuation techniques
d) frequency of revaluations
e) the implementing agency

The property tax bases

A tax base is the good or service on which the tax is levied ((Hardwick, 1999). The tax base in property taxation is what is taxed. It can include the vacant land with no improvement, capital value or land with improvements, rental value, or area rating. Taxes can also be ad valorem, where the tax is at a percentage rate of the value of the good (Hardwick, 1999).

The base upon which the property tax is charged is an issue of policy and is defined in the property tax legislation of a country (Kelly, 1999; Un-habitat, 2011). The tax laws also provide for the valuation process and state the properties that should be taxed and the ones that are exempt.

Property taxation by the local governments in the world differs depending on the tax base. There are about four systems of property taxation at the local level in the world (Roy and Linn, 1992; Norregaard, 2013). These are annual rental value, capital value, site value or land value and area-based systems. The main difference in the systems is the tax base. Annual rental value and the capital value systems have the tax base as the land and the improvements thereon. The annual rental value taxes the income from the property while the basis of capital value is the market value of the property. The basis of the site value system is the market value of the unimproved site. This is currently practiced in Nairobi County together with area rating for the suburb areas that are supposed to have inadequate service provision.

Valuation of the Property Tax Base

Valuation of real estate is the process of developing an opinion of value usually done by a professional Valuer (Appraisal Institute, 2013). Pagourtzi et al (2003) quotes International Valuation Standards which define market value as *"the estimate amount in terms of money which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after property marketing where the parties had each acted knowledgeably, prudently and without compulsion."* This is the definition applied in this research.

The property valuation process should produce an accurate estimate of the market value for it to gain validity (Pagourtzi et al, 2003). The valuation of property depends on the system of taxation adapted whether annual value system, capital value, site value or area-based taxation system. The criteria and standards for assessment should be spelt out. The definition of value under the different systems is a policy issue that has an impact on how the tax burden is distributed (Dillinger, 1991).

There are two types of valuation approaches. The first one is direct market survey approach which relies on parcel-based approach to valuation. The second approach is the use of mass appraisal that involves extrapolation of property values from a sample of properties (Dillinger, 1991). Individual valuation of properties enhances equity because the property valuation will be almost equal to the market valuation. Also, property values change at different rates in different urban areas. As Bird and Slack (2007, pg 224) says *"fairness is not achieved when property assessments are merely increased by a common factor on an annual basis*."

The manual or traditional valuation approach "*relies heavily on expert knowledge and is intensive on manpower resources as each property tends to be individually assessed. In many ways, though, this detailed property-by-property approach can be extremely accurate, however, it is becoming almost impossible for those authorities charged with the assessment/reassessment task to actually fulfil their obligations. Hence, the significant revaluation lags being experienced in many countries and jurisdictions"* McCluskey et al (2002 pg. 10).

The property tax assessment process should be uniform within the taxing jurisdiction to ensure that the burden of the local government is shared equitably among the taxpayers (Bird and Slack, 2002). In addition, to enhance equity in taxation, revaluations should be carried out regularly. This ensures that the assessed values are almost a true reflection of the market value. It also reduces the impact of sudden increase in property values and in effect property tax that may lead to discontent with the taxpayer and affect compliance.

Bird and Slack, (2002) also notes that though a property tax system should have an appeal process where the taxpayers who are dissatisfied with the valuation can appeal, this process can inhibit equity in property taxation. The reason for this is that the well-off tax payers are mainly the one who can afford legal redress and are therefore able to appeal a high valuation of their properties. This affects equity of the property tax system.

Property tax valuation in developing countries face many problems (Norregaard, 2013). This includes inadequate valuation professionals, weak administration, under-developed property market which limits the sales data that can be used in the valuations. These problems lead to property valuations that are usually below the market values.

Bird, (2002) also adds that to enhance equity the revaluation cycles need to be short. This is usually stipulated in legislations. In most countries revaluations are done after three to five years.

The market value of property is usually determined by three approaches; - sales comparison, cost and income approaches.

a) Sales comparison approach

The method is mainly used under land value and capital value systems of property taxation. The market value of land or land and improvement is estimated by reference to comparable sales data of similar properties that have been realised under market conditions (Peden, 2012). No two properties can be identical. Therefore, the Valuer must adjust for differences in age, quality of construction, date of sale and the neighbourhood characteristics (Pagourtzi, et al 2003).

The method is very reliant on availability of sales data that must be accurate, complete, and timely (Pagourtzi, 2003).

b) Income approach

The income approach is used in estimating the value of income producing properties. To arrive at market income, the data from similar properties in the neighbourhood is used and the annual income flow is capitalized to arrive at an estimate of market value (Peden, 2012).

This method focuses on the demand side of the property market. The property must be able to fetch some incomes in the form of rent from the market. Where a property is owner occupied, comparable rental properties are used as the basis of market rent. However, this method is limited in special properties which cannot fetch market rents. In South East Europe, most residential properties have controlled rents which limit the use of this method (NALAS, 2009).

c) Cost approach

This method is mainly used in valuation of developed properties which are rarely sold in the market and do not generate income such as owner-occupied properties (Pagourtzi et al, 2003). Estimation of the value of vacant land is based on comparable sales of similar properties. The cost of the improvement is estimated by use of replacement or reconstruction cost of a new development which is adjusted for depreciation and obsolescence depending on its condition. The value of the vacant land and the cost of improvements are added up to come up with an estimate of value (Pagourtzi et al, 2003).

Market valuation of property has advantages in local government property taxation. Peden, 2012 and De Cesare, 2012 note that market value of a property for taxation purposes makes the tax paid a function of the market worth or value of the property which is what the taxpayers can afford to purchase in the market. It therefore links the property value on which the tax is based, to the ability to pay of the taxpayer. This makes the tax system more equitable. The valuation process is also based on set methods of determining value which can either be cost, comparable sales or income approaches. The value is therefore not determined in an arbitrary way. Market vauation results to inreased revenue from property taxation because the value of tax base increases with the value of the properties.

Despite the above advantages, Peden (2012) gives the following as the disadvantages of using the market value to assess tax:

i. Market valuation faces criticism that it does not insulate the tax payers against sudden changes in the market. An example is during the housing bubble in the United States of America where there was increase in property values in the 2000s which resulted in corresponding increase in the property tax. Peden (2012) notes that in 2005, data on house price increases indicated that values had risen up to fifty times over this period. Though the property values may increase it does not necessarily lead to corresponding increase in incomes of the home owners and they are therefore not able to afford the increased property taxes. This applies especially for retired home owners.

ii. Time lags between revaluations results in outdated values that are not a true reflection of the market. Also if there is an error in the valuation, it means some taxpayers will be paying higher or lower taxes until the next revaluation when this can be rectified. This affect equity of the property tax.

Computer Assisted mass Appraisal

Kontrimas and Verikas (2009 pg. 443) define mass appraisal as "*the systematic appraisal of groups of properties as of a given date using standardized procedures and statistical testing.*" The aim of mass appraisal is to arrive at the value of the property. The mass appraisal models are mainly based on the sales comparison method of valuation. Linear regression, neural networks and support vector machines are the main models usually used.

Valuation for local property taxation involve valuing huge numbers of properties within their area of jurisdiction. The parcel-based valuation method involves a Valuer visiting every property and ascertaining its details. This is a cumbersome, time consuming and expensive exercise.

Table 2: Properties valued for tax purposes in some taxing jurisdictions of the world

City	**Number of properties(millions)**
Ontario, Canada	4.70
British Columbia	1.88
Jakarta	1.60
São Paulo	2.76
Bogota	1.78
Kuala Lumpur	0.46
Bangalore	1.16
Johannesburg	0.81
Hong Kong	2.35
Western Australia	1.90
Cape Town, south Africa	0.73

Source: Adapted from McCluskey et al, 2013

Mass appraisal is therefore a more cost effective and efficient way of assessing the value of several properties in each period (NALAS, 2009).

To address these problems faced by developing Countries in property taxation, Norregaard, (2013) proposes the use of software tools such as computer- assisted mass appraisal (CAMA system). In CAMA a price index is estimated from comparable sales of type of properties in an area such as residential properties. This index is then used to value other properties.

According to IVS (2007) the process of carrying out mass appraisals involves the following:

i. identify properties to be appraised
ii. define the market area in terms of consistent behaviour on the part of property owners and would-be purchasers
iii. identify characteristics of supply and demand that affect the creation of value in the defined market area

iv. develop a model structure that reflects the relationship among the characteristics affecting value in the market area
v. calibrate the model structure to determine, among other attributes, the contribution of the individual property features affecting value
vi. apply the conclusions reflected in the model to the characteristics of the properties being appraised
vii. validate the adopted mass appraisal process, model, measurements or other readings including the performance measures, on an ongoing basis and/ or at discrete stages throughout the process
viii. review and reconcile the mass appraisal results.

Though mass appraisal is more efficient than parcel based valuation method, it is criticised because of the high initial cost of introduction. It also relies on highly trained and specialised staff, and extensive database to analyse data (NALAS 2009). These resources may be lacking in most developing countries.

Mass appraisals enhances equity in the valuation process. As IAAO (2013) notes, "*the use of CAMA system results in a valuation system characterised by accuracy, uniformity, equity, reliability and low per parcel cost. Except for unique properties, individual analysis and approaches are not practical for ad valorem tax purposes*" IAAO (2013, Pg 5).

The valuation cycles

Having appropriate valuation cycles is one of the major challenges of property taxation in the world. The property market keeps on changing. It is affected by the economic condition in the country and by demand and supply. This results in changing property values. Regular valuation of property can capture the changes in value.

Where long periods elapse before revaluation is done, the market values are eroded. The tax base is then not based on ability to pay, resulting to inequity in property taxation.

Table 3: Statutory valuation cycles for rating in selected countries in Africa

Country	Valuation cycle
Botswana	Max 5 years
Kenya	Max 10 years
Lesotho	3 years (+3) [2]
Malawi	Max 5 years
Namibia	Max 5 years
Swaziland	Max 5 years
Uganda	5 years (+) [3]

[2]- The legislation states 3 years, but the responsible minister may extend it annually for an overall maximum of 6 years (i.e. a further 3 years).
[3]- The minister responsible may approve an extension

Adapted from Franzsen (2002)

Periodic or frequent valuations and revaluations are important in maintaining up to date values in the tax register and to reflect the market situation. This will enhance equity in property taxation. As argued by Kitchen (2013, pg.12) *"In value-based systems, a shorter time frame for reassessment is preferred because this helps in maintaining the legitimacy of the tax base and it reduces the risk of sudden and dramatic changes in tax burdens that often arise when reassessments are conducted sporadically and infrequently"*

Almy (2002) notes that property tax systems are dynamic and not static. They should operate within a time frame given that the tax itself is annual. The reassessment should be periodical with set time frames. The valuation cycles should be short with the goal to have revaluations done every after three years but not more than five years (Bell, 1999).

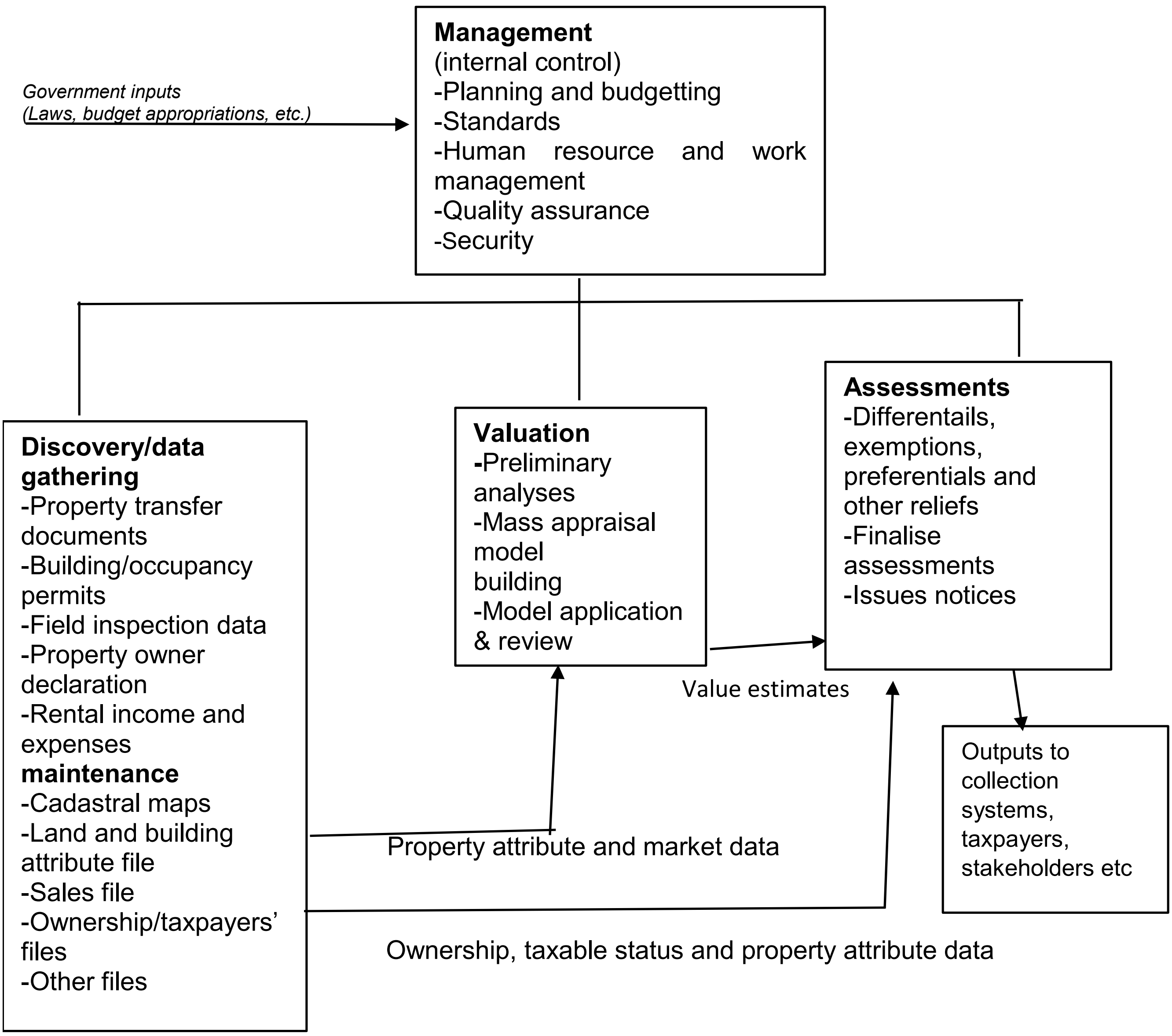

Figure 1: The property assessment system

Source: Adapted from Real Property Assessment Systems (Almy, 2002, Pg. 5)

The implementing agency

This can either be the central government or the local government and should be spelt out in the property taxation legislation. There should be a separation between the bodies involved in the property valuation process taxation and the one which collects taxes. UN (2005 pg. 46), "Taxation is a political process while valuation is a technical matter. Combining the two functions under one roof may bring about a conflict of interest."

Where local authorities are involved in property valuation it results to high costs of the valuation and may also result to conflict of interest. The local property values the tax base, assesses the tax, and collects the tax, which increases the likelihood of conflict of interest.

UN (2005) Notes that some countries have a central valuation agency which is under the land administration agency. The advantages of this set up include:

i. uniform application of laws and standards
ii. use of common software therefore reducing the cost of installation and maintenance for mass valuations
iii. reduction in duplication of records and staff resulting to efficiency and economy
iv. increased ability to gather property data and monitor the land markets.

Monitoring of the valuation process

Monitoring is important in maintaining the legitimacy and acceptance of property taxation (Bell, 1999). Monitoring should be done to ensure quality assurance and uniformity in the valuation process and ultimately the taxation process. The assessment- sales ratio is the main tool used for monitoring the outcome of the valuation process. They are used to ensure accurate and uniform values (IAAO, 2014).

In value-based property taxation systems, assessed rental or capital values should be uniform within groups or classes in a jurisdiction. The property should be assessed at market value as per the legal requirements and professional standards (IAAO, 2014).

There should be consistency and uniformity in property values between and within property groups (IAAO, 2014). Where there is uniformity between property groups, residential properties should be appraised at the same percentage of market value as commercial properties. Consistency is evaluated by measures of central tendencies. IAAO (2014) recommends the appraisal level of each major property group such as residential, commercial, industrial, should be within five percent of the overall level in the jurisdiction. There should also be uniformity in values within same property groups such as residential properties, low-income and high-income neighbourhood.

According to Bell (1999) monitoring the valuation process ensures fairness of the property tax. This promotes legitimacy and acceptance of property taxation among the property owners and other stakeholders. Monitoring and evaluation also enable the National Government to equalize the tax base across several jurisdictions. The property tax capacity is then used as an instrument in allocation of local government transfer and other non-tax purposes.

Annual assessment ratio studies can be conducted in-house where the taxing authority has adequate capacity. In case of inadequate capacity, the exercise can be contracted out.

Best Country practices

i. Property taxation in The United States

The USA has a federal system of government with Federal, State and Local Levels of Government where the later vary from large Counties and Cities to small Towns and special Districts (Hyman, 2011). The property tax is an old tax which is hated and considered unfair and an intrusion into private property (Ulbrich, 2011). It is a major source of local government revenue with and in the fiscal year 2008-2009 collection was 410 billion which formed 72% of local government revenue and 28% of general revenue (Ulbritch, 2011). The property tax base is on real estate which includes land and improvements. All property is taxable except the exempt property.

The administration of the property tax falls under the local governments and vary from one local government to another (Hyman, 2011). The state governments are however involved in setting the rules and in administration of the property tax (Ulbrich, 2011).

Ulbrich (2011) and CCH (2009) note that in most states the local government is responsible for property assessment but in some states, the state is involved in the assessment of property owned by public utilities, mining and natural resources. The assessment can either be done by an elected assessor or an appointed official. The role of the assessor is to identify and make an inventory of all the assessable property within a jurisdiction, assess the property and include them in assessment roll (CCH, 2009). To carry out these functions in a timely and accurate manner, the assessor should have up to date property records.

Assessment is supposed to be done annually and depending on a state, the process of value determination starts nine to eighteen months before billing is done (CCH, 2009). Ulbrich, 2011 however notes that due to the cost of reassessment, this is not done annually but takes three to seven years.

Assessment is at market value of the property and states use different rates of the market value as the tax base. Some use full market value where the tax is assessed at 100% of the market value while other have classified rates for different property uses.

On completion of the assessment roll, it is subject to review by local, regional, or state body known as a board of equalization or board of review (CCH, 2009). The body is responsible of '*raising or lowering any incorrect valuations, adding any property to the roll that the assessor may have improperly or inadvently omitted'* (CCH, 2009). The board has the supervisory role of regulating and monitoring local assessment practices, hears appeals to the valuation and advice on local tax issues. Once the valuation roll is certified, it is adopted by the taxing authority for levying of property taxes.

The property tax in USA has faced problems. This is mainly due to rapid increase in property values that result in annual increase in the tax burden. In some states, the property values increase at rates higher than the rate of inflation. For retired citizens and those with fixed incomes, the property tax becomes a real burden. Due to these challenges there were revolts against the property tax in the 1970s and 1980s (Brunori et al, 2006). This resulted to changes in ways that local governments raise revenue and "---signalled the beginning of a new and decidedly anti-tax political philosophy that continues to this day" (Brunori et al, 2006, pg.22).

ii. Property taxation in The United Kingdom

United Kingdom is a unitary kingdom comprising of England, Scotland, Wales, and Northern Ireland. The UK has a varied structure of Local Authority. Property taxes on residential and non-residential properties are levied differently. Property taxes on residential properties are also known as council taxes and are set locally while property taxes on non-residential properties are set nationally and are similar throughout the UK.

Until 1990, property tax on all properties in the UK was assessed based on estimated rental value by a central government agency and was charged on the occupant or tenant of the property (Slack and Bird, 2014). The last rental value revaluation had been done in 1973 and revaluation to more current values was expected to lead to increased value and raise opposition to the tax. The government briefly introduced a poll tax or community tax on all adults above 18 years old, which was abolished in 1992 due to its unpopularity and reduced collection of rates. It was replaced with a tax on residential property or the Council tax. The tax was based on the capital value of the property with the market value as at 1st April 1991 (Slack and Bird, 2014).
The valuation for all properties is centralized and is done by the Valuation Office Agency. Under the County tax, there is no valuation of an individual residential property, but the value is based on various capital value bands. Davis et al (2004, pg 51) describes capital value banding as a system that relies on the "concept *of dividing properties into different categories according to an estimate of their capital value for the purposes of*

determining a property tax bill. Rather than valuing the properties to a discrete figure and assigning them to a band, the property values are estimated according to a range of values or bands"

Table 4: Valuation Bands in the United Kingdom

Range of values				
Valuation band	**Scotland (£)**	**England (£)**	**Wales (£)**	**Proportion of Band D bill payable**
A	Up to 27,000	Up to 40,000	Up to 30,000	6/9
B	27,001-35,000	40,001-52,000	30,001-39,000	7/9
C	35,001-45,000	52,001-68,000	39,001-51,000	8/9
D	45,001-58,000	68,001-88,000	51,001-66,000	9/9
E	58,001-80,000	88,001-120,000	66,001-90,000	11/9
F	80,000-106,000	120,001-160,000	90,001-120,000	13/9
G	106,001-212,000	160,001-320,000	120,001-240,000	15/9
H	0ver 212,000	Over 320,000	0ver 240,000	18/9

Adapted from Davis et al (2004, pg.53)

The banding system is simple and requires less accuracy in the valuation process. The properties are placed in wide value ranges which reduce the tendency to treat a household unfairly if there is a slight increase in the value. Change from one value range to another can only occurs where a neighbourhood deteriorates and all the properties in the area are moved to a lower value range. If a house is expanded and increases in value, re-branding is only done on sale of the house, but if it is demolished, rebranding is immediate (Enid, 2004). For the non-residential properties, revaluation is done every after five years except in 2015 which was postponed to 2017 (Slack and Bird 2014). This tax is a Central Government tax in the UK.

Currently, residential and non-residential properties are treated differently for local taxation purposes. For residential properties, the valuation has been capped or frozen as at 1991 while for non-residential properties, revaluation is done every after five years.

3. RESEARCH DESIGN

The study relied of on both primary and secondary data sources. Primary data was collected by interview of key officers in the Directorate of Land Valuation, Nairobi City County. Secondary data on unimproved site values was collected from Nairobi city. The research relied on residential properties in two study areas namely Buruburu and Kilimani areas. A sample of 650 land reference numbers for Buruburu and 70 land reference numbers for Kilimani was used. The details on area of the plots, location, and the unimproved site values that are assessed by the County was obtained. For the current market values as at 2016, the researcher obtained comparable sales of similar properties from the Land Valuation Directorate, Ministry of Land and Physical Planning. Secondary data comprised of documentary search on the property taxation policies.

The key informant interviews of the officials in Valuation Department of Nairobi City sought to answer the following questions:

i. Does the County have provision for a legal assessment date?
ii. How often are revaluations done?
iii. What is the basis of valuation adapted by the County?
iv. What methods and techniques of valuations are used?
v. Has the county adopted mass valuation of properties?
vi. What measures is the County adopting to improve the valuations process?

Thematic analysis of the data was done. Comparison with other countries was also done to establish best practices of valuation in property taxation.

4. RESEARCH FINDINGS AND DISCUSSIONS

a) The property valuation process

In Kenya, the valuation practice is regulated by the Valuers Registration Board which is set up under the Valuers Act. The board registers Valuers who have the required academic and professional qualifications. The Institutional of Surveyors of Kenya is the professional body that constitutes of Valuers, Land Surveyors, Geomatics Engineers, Registered Estate Agents, Property Managers, Building Surveyors, Land Administration Managers and Facilities Managers. Its role is to promote professional ethics among its members. The Valuers fall under the Valuation and Estate Management Surveyor Chapter. It also offers trainings to keep the members abreast with international standards in their profession.

Property taxation is a devolved revenue source for county governments in Kenya under the constitution of Kenya. There are two legislations that provide for local government property taxation namely the Rating Act (ROK, 2012) and the Valuation for Rating Act (ROK 2015). These laws were enacted in the 1960s and have only been undergoing piece meal revisions. The laws have not yet been revised to take into account devolution and formation of county governments in Kenya. They require complete overhaul to reflect the current trend in the country. The laws do not specifically provide for mass valuation and do no also provide for independently monitoring and evaluation of the property taxation process.

b) The tax base

According to the legislation a local authority in Kenya may adopt an area rate as a basis of property taxation. However, area rates are not based on value. The law provides for use of unimproved site value, land value or improved value. However, none of the local authorities in Kenya, including Nairobi has adopted improved value. The basis of valuation is therefore vacant land even when land is developed. The challenge with this basis is that Nairobi is an urbanised area with many developments on land. Using vacant land as a basis for comparison with land element of a developed land is subjective and does not reflect the true market value of the land.

c) Computer assisted mass appraisal

The NCC has not adopted mass appraisal of properties for taxation purposes and has been relying on parcel-based valuation method which is cumbersome and costly. The appointed valuer visits each land parcel and comes up with the value or caaries out a desk top valuation using comparable sales of an area. The professional valuation fees are based on the total value of the land that is arrived at in the valuation roll. Where the valuation for rating purposes is done by the valuers from National Government under Ministry of Land and Physical Planning, the valuation fee is charged at half the scale of fees provided for under the Valuers Act. Currently the valuation fees for rating purposes in Kenya as provided for in the Valuers Act Cap 532 Subsidiary Legislation are charged at 1% for the first Kshs. 2,000,000 and 0.25% for the residue of the assessed property values excluding other expenses. Assuming a market value of Kshs.10 billion, the valuation fees would be about Kshs. 25 million plus expenses. Properties in Nairobi have very high values and the cost of valuation for all the properties will be high. The parcel-based valuation system is also subject to human error since data collection is mainly manual and may result in omission of properties from the register. All these have a negative implication of the amount of revenue generated.

The updating of the valuation roll is done manually. There is an information technology officer who is seconded from the IT department to update the roll once the Valuers carry out manual valuations on paper. The County has therefore not adapted to modern methods of valuation and updating of the property valuation register.

A draft valuation roll prepared in 2016 under a partnership with World Bank is based on GIS mapping and land information of Nairobi County. This has however not been adopted by the County.

d) Agency responsible for property valuation

The Valuation for Rating Act (VRA) empowers a local authority in Kenya to value land for rating purposes. It provides for the process and the procedures to be followed in this exercise. The VRA and the Rating Act (RA) provides for contracting out of valuation of properties to private valuers. The 1982 valuation roll which is used by Nairobi City use was carried out by the central government valuers under the Ministry of Lands and Physical Planning. The appointment of a Valuer is provided for in the RA. This is done after a resolution by the LA. The procedure has been that once the LA has resolved on the Valuer or Valuers to carry out the draft valuation or supplementary roll, a gazette notice is done. Failure to follow these procedures can lead to the valuation roll being challenged in court.

There is no central agency in Kenya mandated to carry out valuation for local government property taxation. The Valuation Department under the Ministry of Land and Physical Planning carries out valuation for taxation purposes for the national government. This includes valuation for stamp duty and estate duty. There is no legal requirement that valuation for County government property taxation be done by the central government valuers. However, most county governments contract the government valuers because they have access to land information documents such as ownership documents and property maps. The valuers are also based at the County levels.

e) Basis of valuation

The basis of valuation is set out Section 8 of the Valuation for Rating as:

- "*The value of land shall, for the purposes of a valuation roll or supplementary valuation roll, be the sum which the freehold in possession free from encumbrances therein might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose, due regard being had, not only to that particular land, but also to other land of similar class, character or position, and to other comparative factors, and to any restrictions imposed on the land, and on the use of the land, by the local authority or a town planning authority by or under any by-laws or town planning powers, being restrictions which either increase or decrease the value of the land.*

- *In arriving at the value of land under this section, the Valuer may adopt any suitable method of valuation.*

Therefore, the basis of valuation of the unimproved land is market value through use of comparable sales of similar land in the neighbourhood. The challenge with this method is that most of the land in the study area is developed. In BuruBuru Estate, all the plots are developed with residential houses. Using vacant land as a comparable is not a true reflection of the condition of the developed properties. There is also a challenge of getting sales comparable for vacant land in the developed parts of Nairobi. The Valuer ends up making a subjective judgement and the value arrived at can be challenged on appeal.

The information included in the main valuation and the supplementary rolls include:

i. *The description, situation and area of the land valued;*
ii. *The name and address of the rateable owner;*
iii. *The value of the land;*
iv. *The value of the unimproved land;*
v. *The assessment for improvement rate*.

This requirement may be excluded with the exemption of the Minister, in the current dispensation, the Governor. A supplementary roll may be prepared to include properties that have been omitted from the main valuation roll, properties that have undergone sub-division, change of use or amalgamation; and also, to rectify any errors are that have been made. But the VRA does not give a time frame within which this must be done and NCC last prepared a supplementary roll in 2012. This implies that properties that have been sub-divided, changed use within this period have not been included in the tax register.

f) Valuation cycles

The Valuation for Rating Act provides for revaluation of properties after every ten years. The law however provides for extension of this period with the approval of the Minister for Local Authority. With devolution and establishment of the Counties, the Ministry was dissolved, making the Counties autonomous. Consequently, the decision for the extension of the valuation roll is made by County Executive.

NCC last updated its valuation roll in 1982, about 36 years ago and has not therefore adhered to the 10 years' cycles provided for by the VRA. The land values being used as the basis of taxation are obsolete and have insignificant relationship with current market values.

The average site value of sample properties in Buruburu area as per the valuation roll in currently in use by the County is Kshs. 386,000 per acre. The average market value of the sampled properties as at 2016 was Kshs.70,000,000 per acre. This indicates an increment of about 18,034% over 36 years. For Kilimani area, the average site value of the properties as per the valuation roll in currently in use by the County is Kshs.120,000 per acre. The average market value of the sampled properties as at 2016 was Kshs. 350,000,000 per acre. This indicates an increment of about 291,566% over 36 years.

The county is not capturing this drastic increase in land values and is therefore not fully exploiting the revenue potential of property tax. The County has only been increasing the rate on the site values.

g) Monitoring and Evaluation

To ensure equity in property taxation, the Director valuation noted that they County aims at assessing the properties at current market values but due to the legal challenges and cost constraints, the County has not been able to implement this. There are no mechanisms that have been put into place to ensure that the properties are assessed at market value and also to ensure uniformity and equity in assessment.

The current law does not provide for monitoring and evaluation of the property taxation processes of property tax base, coverage, and valuation. The property taxation processes are not monitored or evaluated by and independent board. The only provision in law is in the National Land Commission Act, 2012 which mandates the NLC to assess tax on land in any jurisdiction where legally applicable. The Act does not however give the NLC authority to oversee the taxation process in the County.

The County has also not set any strategy by which to monitor the property taxation processes to ensure that all the properties in Nairobi are included in the tax register, that there is uniformity in the valuation processes and therefore ensure equity in property taxation.

5. CONCLUSION

This study set to evaluate the property valuation process in Nairobi City County. It has highlighted that the tax base is on the unimproved value of the land. The unimproved land value is subjective especially for Nairobi where most of the properties are developed. The infrequent revaluation and large time lag between revaluations has resulted to the City relying on historical valuation registers where the value used for taxation has no relation to the market values.

The City has not adopted mass valuations and relies on parcel-based valuation methods which is cumbersome and does not ensure uniformity of valuation. Though there is a draft GIS based valuation register that was done in 2016 under funding by the World Bank, it has not yet been adopted for taxation. There seems to be low political will to implement changes to the property valuation process and in extension the property taxation.

There is no independent body that monitors and regulates property valuation for taxation in Nairobi. The existing legislation does not provide for monitoring and evaluation of the property taxation process. Nairobi has not formulated a policy on property taxation. The county still relies on the national legislations which are broad. This has resulted to underutilisation and of property taxation and under taxation of properties in the County.

REFERENCES

Almy, Richard. 2002; Real Property Assessment Systems. Background Materials. Lincoln Institute, Cambridge, Massachusetts.

Appraisal Institute. 2013; Appraisal of Real Estate. 14th Edition. Chicago.

Bahl, Roy and Linn, Johannes. 1992; Urban *Public finance in developing Countries. World Bank.* Oxford University Press.

Bahl, Roy and Martinez-Vazquez, Jorge. 2007; *The Property Tax in Developing Countries: Current Practices and Prospects.* Working paper WP07RBl. Lincoln Institute of Land Policy.

Bell, Michael E.1999; *An optimal property tax: concepts and practices*. Proceedings. Washington, DC: World Bank Group http://documents.worldbank.org/curated/en/382921468320949025/An-optimal-property-tax-concepts-and-practices accessed on 21st August 2017.

Bird, Richard M, and Slack, Enid. 2007; *Taxing Land and Property in Emerging Economies; Raising revenue ----- and more*? In Land Policies and their outcomes. Pg. 204-233. Lincoln Institute of Land Policy, Cambridge.

Bird, Richard M, and Slack, Enid. 2002. *Land and Property Taxation: A Review*. World Bank. Washington D.C. http://www1.worldbank.org/publicsector/decentralization/June2003Seminar/LandPropertyTaxation.pdf

Brunori, David; Green, Richard; Bell, Michael; Chanyung, Choi; Yuan, Bing. 2006; *The Property Tax: Its role and significance in funding State and Local Government Services.* Working Paper No. 27. George Washington Institute of Public Policy (GWIPP). The George Washington University, Washington.

CCH. 2009; U.S. *Master Property Tax Guide*. A Wolters Kluwer Business, Chicago. https://books.google.co.ke accessed on 15/1/2018.

Cornia, Gary C. and Slade, Barrett A. 2005; *Property Taxation of Multifamily Housing. An empirical Analysis of Vertical and Horizontal Equity.* Journal of Real Estate Research (JRER) Vol. 27 No.1- 2005.

Davis, Pedear; Mccluskey, William and Lim, Jasmine. 2004; Residential Property Taxation: A Capital Value Banding Approach Journal of Property Tax Assessment and Administration. Volume 1 Issue 3.

De Cesare, Claudia M. 2012; *Improving the Performance of the Property Tax in Latin America*. Lincoln Institute of Land Policy, Cambridge.

Dillinger, William. 1991; *Urban Property Tax Reform. Guidelines and Recommendations.* Working Papers urban development WPS 710. World Bank, Washington D.C.

Fjeldstad, Odd-Helge and Heggstad Kari. 2012; Local government revenue mobilisation in Anglophone Africa. WP 2012: 6. CMI-Chr. Michelsen Institute. https://assets.publishing.service.gov.uk/media/57a08a9bed915d3cfd00084c/Local-government-revenue-mobilisation.pdf assessed on 28/12/18

Hardwick, Philip; Longmead, John and Khan, Bahadur. 1999; *An Introduction to Modern Economics*. 5th Edition. Prentice Hall, Edinburgh Gate, Harlow.

Hyman, David N. 2011; Public Finance. A Contemporary application of theory to policy, 10E. South-Western Cengage Learning, Mason.

International Association of Assessing Officers. 2010; *Standard on Property Tax Policy.* IAAO, Kansas City, Missouri.

International Association of Assessing Officers. 2013; *Standard on Mass Appraisal of Real Property.* IAAO, Kansas City, Missouri.

International Association of Assessing Officers. 2014; *Guidance on International Mass Appraisal and Related Tax Policy*. IAAO, Kansas City, Missouri. www.iaao.org/media/Standards/International_Guidance.pdf accessed on 22nd August 2017.

IVS, 2007; *Mass Appraisal for Property Taxation*. International Guidance Note 13, London: International Valuation Standards.

Kelly, Roy. 1999; *Designing a Property Tax Reform Strategy for Sub- Saharan Africa: An analytical Framework applied to Kenya*. Development Discussion Paper No. 707. Harvard Institute for International Development.

Kontrimas, Vilius and Verikas, Antanas. 2009; *Mass Appraisal of the Real Estate by Computational Intelligent.* In Journal Applied Soft Computing Vol. 11 issue 1, January, 2011. Pgs 443-448. Elsevier Science Publishers, Amsterdam, Netherlands.

Kitchen, Harry. 2013; *Property Tax: A Situation Analysis.* In A Primer on Property Tax: Administration and Policy, First Edition. Edited by William J. McCluskey, Gary C. Cornia and Lawrence C. Walters. © 2013 Blackwell Publishing Ltd.

McCluskey, William J.; Plimmer, Frances A.S, and Connellan, Owen P. 2002; *Property Tax Banding: A solution for Developing Countries*. Pacific Rim Real Estate Society. http://www.prres.net/papers/mccluskey_property_tax_banding_a_solution_for_developing_countries.pdf Accessed 15/12/2018

McCluskey, William J.; Davis, Peadar; McCord, Michael; McIlhatton, David and Haran, Martin. 2013; *Computer Assisted Mass Appraisal and the Property Tax* in A Primer on Property Tax: Administration and Policy (p. 307- 338). Wiley. Kindle Edition.

NALAS (Network of Association of Local Authorities of South East Europe). 2009; *Improvement of Local Property Tax Administration in South East Europe*. www.nalas.eu/Knowledge/.

Norregaard, John. 2013; Taxing immovable property- Revenue Potential and Implementation Challenges. IMF working paper WP/13/129. www.imf.org/external/pubs/…/wp13129.pdf

Nzau, Bernard, 2003; *Modelling the influence of Urban Sub-Centres on the Spatial and Temporal urban land values patterns: Case study of Nairobi, Kenya.* Master's Thesis, ITC, Netherlands.

Pagourtizi, Elli; Assimakopoulos, Vassilis, Hartzichristos, Thomas and French, Nick. 2003; *Real Estate Appraisal- A Review of Valuation Methods. Journal of Property Investment and Finance*. Vol 21 No4 pg.383-401. *http://www.emeraldinsight.com/1463-578x.htm*

Peden, Erica H. 2012; *The Property Tax Crisis, Equity and Property Tax Reform. Choosing between market and non-market methods of valuing the property tax base*. missisippilawjournal.org/wp-content/2012…Peden_FINAL.pdf

Republic of Kenya, 2016. Annual County Government Budget Implementation Review Report FY 2015/16 September, 2016. Office of the Controller of Budgets.

Republic of Kenya. *The Valuation for Rating Act.* Chapter 267 of the Laws of Kenya. Revised 2015. National Council for Laws Reporting, Kenya Law Reports. www.kenyalaw.org

Republic of Kenya. *The Rating Act.* Chapter 267 of the Laws of Kenya. Revised 2012. National Council for Laws Reporting, Kenya Law Reports. www.kenyalaw.org

Slack, Enid and Bird, Richard, M. 2014; *The Political economy of property tax reform.* OECD Working Papers on Fiscal Federalism No. 18. http://dx.doi.org/10.1787/5jz5pzvzv6r7-en Accessed on 28/12/18.

Ulbrich, Holley. H. 2011; *Public finance in theory and Practice*. Second Edition. Routledge, New York.

United Nations. 2005; *Land Administration in the UNECE Region. Development Trends and Main Principles*. UN. Geneva.

Un Habitat. 2011; *Land and Property Tax- A Policy Guide*. United Nations Human Settlement Programme, Nairobi.