A Review of the Training Needs for Revenue enhancement for local Authorities in Kenya

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Abstract

In Kenya, discussions on property taxation are becoming increasingly important within the local authority finances as more responsibilities are devolved to local government units. Property tax is the single most important source of revenue for local authorities. This source of revenue has been said to be the most lucrative and promising, yet the least tapped source of tax revenue to support urban governments in Africa. These urban governments are the most affected by rapid urban growth, unplanned in many countries.

This study discusses the rating systems in general and highlights the existing system in Kenya. Part of the different initiatives local authorities, in Kenya, have taken to understand the taxation system, include training. Currently staff training on an understanding of Valuation For Rating is being carried by some local authorities. The main purpose of the training is to help participants understand basic concepts of the valuation system/valuation rolls, including the rationale, core concepts, benefits and risks and the potential relevance of improving land valuation systems for revenue enhancement in local authorities in Kenya.

This study will evaluate the success of this training initiative and make suggestions for future training. It concludes by bringing to the fore the implications of training on the improved revenue enhancement for local authorities. A major recommendation of this research is that training strategies put in place must aim at improving the land valuation system for revenue enhancement in Local Authorities in Kenya. This will involve the following firstly to examine the quality assurance measures employed in the land valuation system used for rating purposes and secondly the handling of objections to valuations including the provision of information to potential and actual objectors.

KEYWORDS: Training, valuation, rating, local government/local authorities, property tax, finance, revenue.

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INTRODUCTION

Property tax is the single most important source of revenue for local authorities in Kenya. This source of revenue has been said to be the most lucrative and promising. Property taxes, according to Kelly (2001) provide an average of 20% of the total recurrent revenue for local authorities and represent 1% of total government revenue and at lease 0.23% of the Gross Domestic Product. Yet it is the least tapped source of tax revenue to support urban governments in Africa. These urban governments are the most affected by rapid urban growth, unplanned in many countries. The extent to which local government has control and has an understanding of these taxes is an important determinant of its commitment to ensure proper administration in collection and enforcement is ensured.

The principles of a good taxation system is discussed and the rating system in Kenya is noted in an effort to understand why the method was chosen. The rating problems indicate the need for a reform programme that will enhance the revenue collection for local authorities in Kenya.

THE PRINCIPLES OF A GOOD TAXATION SYSTEM

Taxes must meet the general principles of good taxation. According to Atkinson and Stiglitz (1980) and Kay and King (1990) good taxation principles include horizontal equity, which states that if people are the same, treat them the same way. Secondly there is also vertical equity, which looks at different people who then be treated differently. The tax process must be as simple as possible for tax collection authorities and the process should be as simple as possible for the taxpayer. The administration and compliance cost of the tax should as low as possible. It must be economical to collect. The benefit principle should apply, where tax payers receive services that they are entitled to.

THE RATING SYSTEM IN KENYA

Rating has been described as the assessment of property tax payable by applying a monetary charge in the form of a rate to the value or values appearing in a Valuation Roll. Rating systems differ depending on whether the rate is applied on land only or on land and improvements. In Kenya rates are imposed on land only. This type of rating is called the Unimproved Site Value rating.

Property tax was introduced in Kenya as early as 1900, where it was first applied to Mombasa on annual rental value basis (Olima, 2005, Olima and Syagga, 1996). It was introduced in Nairobi, the following year. In 1923, taxation on the basis of annual values was found wanting as too few properties had developed. The site value tax was introduced throughout Kenya in 1928. A study done by Fransen and McCluskey found the site value taxation system feasible for many developing countries. They also stated that for whatever system that is adapted to be sustainable, the necessary capacity and professional skills must exist to implement and sustain it. It must also be politically acceptable.

There are 174 local authorities in Kenya and of this 102 use some form of property taxation (Kelly, 2001). Within the 102, 75 use valuation rating, 55 use area rating and 29 use a combination of both. This can also be categorized by the type of local authority, with municipality using valuation rating and counties, area rating or a combination of both. Area rating is also used mainly for rural or agricultural properties.

RATING PROBLEMS IN KENYA

Rates revenues have been declining since 1991. This has been as a result of many factors: To be able to update the valuation roll, rolls initially was to be prepared every five years by a rating department. This has changed to every 10years since 1991. However the law does provide for the production of supplementary tax rolls on an annual basis if required. Many of the current rolls date back the early 1980s, with sporadic and ad hoc issuance of incomplete rolls. City Council of Nairobi uses the valuation roll for 1982.

Tax administration has been seen as the weak link in property taxation in Kenya. Components of this include incomplete information, collections are low and enforcement is virtually non-existent. There is also lack of political will for enforcement. All this maybe attributable to lack of taxpayer confidence or understanding in the how the tax is levied, collected and enforced and used. There is also lack of legal and administrative collection and enforcement mechanisms and most importantly lack of political will.

These problems arise despite the fact that the legal framework under the Rating Act gives local authorities several options. They, however, rely on a passive role of enforcement in the clearance certificate. This is where the taxpayer is expected to clear outstanding debt when he wants to transfer the property, when a permit or license is required from that authority.

A clear case of administrative problems in the local authorities is highlighted by case law. Two examples are discussed here: Jacqueline Resley – applicant Versus Nairobi City Council –Respondent of 2001 and Jacqueline Resley – applicant Versus Nairobi City Council –Respondent of 2004.

This was an example where proper procedure as required by the law was not followed. Once the applicant came before the court and the application was filed and served to the council several things happened. The council realizing it had omitted to conform to the provisions of section 30 of the Valuation for Rating Act and section 26 of the Rating Act, it tried to overcome the invalid action by publishing the notices in the Kenya Gazette of 25th January, 2002, although dated 11th October 2001. It invites the aggrieved persons to lodge their objections within 28 days. The second notice was of 1 December 2001 and simultaneously published with the first notice on 25th January, 2002. Rates become due on the 1st January 2002. This liability was only notified to the rateable owner on 25th January. This according to the Judge go against the principles of natural justice. The council further erred by contemplating to constitute a valuation court since January 2002

The above cases show what are some of the causes of objections. All these problems are reflected in the incompetence of the councils to carry out the valuation as required by the Acts and then to follow the laid down procedure as stated. Effectively in the above case no objections were received before the levy of rates. The provision of the Valuation for Rating Act and the Rating Act did not envisage the procedure purported to have been followed by the City Council. Sections 9, 10, 11, 16 and 17 of the Valuation Act are clear on this. Ultimately because of this incompetence the Judge prohibited the council from levying rates on the 2001 Valuation Roll. The Nairobi City Council was to continue levying rates on the old rates, meaning no extra revenue was to come to the council.

TRAINING AS PART OF TAX REFORM

The problems stated above are now being solved by the government's implementation of a series of local government reform initiatives through the Kenya Local Government Reform Programme (KLGRP). The main objective of this programme is to strengthen the ability of local authorities to improve service delivery, enhance economic governance and alleviate poverty. One main focus of the reform is enhancing revenue collection through strong administration and political will. This paper agrees with many researchers that the primary obstacle to enhancing revenues is weak administration and the lack of political will.

One pre-condition of the tax reform process as suggested by Kelly (2001) was that mobilizing political will requires education and incentives to those involved in the revenue mobilization effort. Attention should therefore be given to educating members of the local authorities as well as the taxpayer, on the rationale, procedures, obligations and responsibilities related to property tax. An understanding of the established laws, regulations and procedures was also needed to help government follow them to earn the credibility that taxes and fees were administered in a transparent and accountable manner (Kelly, 2001).

Part of the different initiatives local authorities, in Kenya, have taken to understand the taxation system, include training of their staff. Currently staff training on an understanding of Valuation For Rating is being carried by all local authorities. The main purpose of the training is to help participants understand basic concepts of the valuation system/valuation rolls, including the rationale, core concepts, benefits and risks and the potential relevance of improving land valuation systems for revenue enhancement in local authorities in Kenya.

CASE STUDY

This study used the case study research method. A course evaluation of the workshop that was carried out in Nakuru, from the 15th to 20th September 2008 was done. There were about 250 participants from different regions of the country. These regions were divided into the Western region, Rift Valley, Nairobi and Central, Eastern, Coast and Northern Eastern Province. Several of the participants and trainers were asked to fill in an evaluation form.

The group comprised of Town clerks, councilors and other administrative staff. Their levels of education vary from lawyers, Bachelor of Commerce graduates to form four, standard eight and lower primary school leavers. All town clerks are lawyers, while the treasurer's office has graduates of Bachelor of Commerce. While councilors are of mixed education levels. There were also representatives from the Association of Local Government Authorities of Kenya (ALGAK). The main trainers were from the University of Nairobi, Department of Real Estate and Construction Management.

The main objectives of the course was to aid in the Improvement of land valuation systems for Revenue Enhancement in Local Authorities in Kenya through training of councillors and other council officers to (hence address the lack of political will) which was cited as a major obstacle in the generation of local revenue.

The Purpose of the Training Session was to help participants understand basic concepts of valuation system/ valuation roll, the integrity of the final roll valuations including the rationale, core concepts, benefits, and risks, and the potential relevance of Improving land valuation system for Revenue Enhancement in Local Authorities in Kenya.

The course content included the following:

- Introduction to the relevant provisions of both The Valuation for Rating Act Cap. 266 and the Rating Act Cap 267,
- Introduction to basic valuation methods
- Understanding the basis of the concept of unimproved site value in valuation rolls and criticisms of the USV
- Mass valuation concepts
- Identification of Major shortcomings in valuation rolls for most local authorities in Kenya
- Sources of valuation roll objections and the valuation court in local authorities in Kenya
- Possible improvements in preparation of valuation rolls for effective adoption by local authorities in Kenya.

1. **Introduction to the relevant provisions of both The Valuation for Rating Act Cap. 266 and the Rating Act Cap 267,**

    1. In accordance with section 4(i)(b) of the Rating Act Cap 267, the Council is required to adopt the form of rating as provided therein over its area of jurisdiction. Unimproved site value (USV).
    2. In accordance with section 7 of the Rating Act Cap 267, the Council appoints each of its valuers (individually)
    3. In accordance with section 2 of the Valuation for Rating Act Cap. 266, the Council is required to make a resolution adopting a specific date as <u>"the time of valuation".</u>
    4. In accordance with the proviso to section 6 of the Valuation for Rating Act Cap. 266, the council resolves and seeks the Minister's written declaration that the valuer in preparing any Draft Valuation in the Roll or Draft

Supplementary valuation, **need neither value nor include in the roll the value for improvements of the land or assessment for improvement rate**, as required by paragraphs (c and (e) respectively of this section.

2. **Introduction to basic valuation methods**
In arriving at the value of land under section 8 of the Valuation for Rating Act, the Valuer may adopt any suitable method of valuation.

3. **Understanding the basis of the concept of unimproved site value in valuation rolls**
a) Unimproved value is the method used by the Valuers to value both rural and urban land for rating and taxation purposes as defined in the Rating Act Cap 267. Unimproved site value (USV) is:
- (I) the capital amount that an estate in fee simple in the land not including improvements might reasonably be expected to realise upon sale; or
- (II) where the unimproved value cannot reasonably be determined on the basis of item (I) – the percentage of the capital amount that an estate in fee simple in the land might reasonably be expected to realise upon sale assuming that the land has been developed, without buildings, to the standard generally prevailing in the part of the local authority in which the land is situated and taking into account any restriction on the land imposed under any written law, such percentage being that prescribed for land in that part of the local authority .

b) **Criticisms of the USV**
Today, Criticisms of USV include :
- It is difficult to administer;
- It is not generally understood (e.g. by local authorities and ratepayers);
- It is impossible to envisage the notional unimproved state when land has been developed for many years and there are no clearing costs available;
- It requires the use of theoretical concepts and contains many imponderables;
- It has no relevance or meaning in the marketplace and no use other than as a basis for rating and taxation purposes;
- It requires the use of concessions and policies;
- No comparable sales evidence is available –

4. **Mass valuation concepts**
Valuers use the component methodology of mass valuation to make valuation recommendations in respect to each property in the local government valuation roll. The mass valuation pilot project was carried out in two local authorities, Mavoko Municipal Council and Nyeri Municipal Council

5. Identification of Major shortcomings in valuation rolls for most local authorities in Kenya

These were discussed as the following;

1. The deterioration in the quality of base line data
2. Inadequate time to undertake valuations,
3. Inadequate time and resources for contract managers to quality assure proposed factors and values,
4. Inadequate observance of standards for component composition and benchmark selection ,
5. Inadequate monitoring of component and benchmark reviews ,
6. Inadequate monitoring of valuation outcomes ,
7. Inadequate outsourcing of the contract management function ,
8. Poor quality control of objection processing

6. **Possible improvements in preparation of valuation rolls for effective adoption by local authorities in Kenya.**

Monitoring of the valuation process requires a verification process for market analysis and approval of benchmark valuations and component factors in terms of the following: Market Analysis Report, Sales analysis, Reliance on dated sales, Absence of uniform methodology for valuing improvements, Adjusting sales for time, make adjustments for time, use of a uniform methodology to adjust for time ,

Monitoring of the valuation process outcomes must be done by having data integrity checks, development of new values analysis tools, statistical measures of accuracy and uniformity, acceptable standards of valuation accuracy. Finally a ratio study will, firstly facilitate the analysis of equitable valuation of properties. Secondly there is need to carry out a ratio study to measure the level of appraisal accuracy of the particular local authority valuation roll. Then, there is need to examine the ratio information for appraisal accuracy. In this case the two essential elements of appraisal accuracy are appraisal level and appraisal uniformity in the chosen sample of properties in the valuation roll.

7. Dealing with objections

Objections to a draft valuation and supplementary valuation rolls can be lodged by any person (including the local authority or any person generally or specially authorized) aggrieved. This objection can be as a result of the inclusion or omission of any rateable property from the rolls. Secondly, it can be by any value ascribed in any draft valuation roll or draft supplementary, or any other statement made or omitted to be made in the same with respect to any rateable property. This objection is lodged with the town clerk at any time before the expiration of twenty-eight days from the publication of the notice referred to in section 9 (3) of the Valuation for Rating Act.

Incidence of the objections

The factors that influence the volume of objections are related to cases where rate payers feel the councils have not followed the laid down rules as set out by the Valuation for Rating Act.

Reference is made here of the meeting held on 8th March 2005. The Nairobi Stakeholders Association and We Care About Nairobi and We Can Do It had the following grievances:

- That the city's rate increase was arbitrary and illegal
- That since the council was not providing service to Nairobi residents they were not supposed to collect rates.

Several examples were given:

1. NCC maybe in contempt of court since it placed an advertisement asking residents to pay their rates, in exchange for a 3% discount which applied only to the disputed 2005 rates.
2. To dispute a rate, a resident must first pay a non-refundable Kshs. 500 fee, regardless of the amount in dispute.

The training of the council, in regard to the above, put emphasis on what are objections, objection screening, the objection and appeal service, delays in processing objections, processing of objections, determining objections and dealing with objections
Then it emphasized on notification of objection determination, guidance for processing objections, objections as a quality control measure, objections and the need to revise values in other valuation programs, objections as a means of identifying problems with valuations of other properties.

The trainees were also introduced to how to deal with objections, objections and the revaluation of benchmark properties, objections as an evaluative tool for quality control and objections as an educative tool for quality control and what information to provide to potential and actual objectors.

THE RESULTS OF THE TRAINING

In this section the success and the shortcoming of the training carried out is discussed.

1. The Success of the Training Initiative

The training had assumed that there was lack of training and information in all the areas. The study evaluated the success of this training initiative by the use of a course evaluation form. The following results were recorded as follows:

1. Most of the Participants attended the courses from 8 am in the morning to 5pm and sometimes up to about 7.30 in the evening.
2. The Course was rated as useful by the majority of the participants
3. The course content was found to be current
4. The course content was however found to be too complicated by many of the councilors (whose only education qualification was that they must know how to read and write.)
5. In terms of implementation, the chairman of finance committees were interested in implementing the course contents.
6. They admitted they initially lacked Legislation knowledge, what collection in lieu of notice, objections procedure,
7. They did not understand the Valuation court procedures, but were willing to learn.

2. Shortcomings of the Course

Many of the participants stated the following:

1. There was too much new material
2. The time given for the course was too short
3. The participants were not given time to ask questions
4. There was no time set aside for discussion groups where participants could discuss the problems in their local authorities

CONCLUSION

The implication of the training on the improved revenue enhancement for local authorities should include the following: Tax administration has been cited as the weak link in property taxation in Kenya. Until councilors and the administration staff in local authorities understand what is property taxation, they are unlikely to work towards an efficient system of collection and enforcement.

The training workshop carried out in Nakuru last year was just the beginning. There are several recommendations and suggestions that can be made for future training. That there should a workshop for training trainers and instead of inviting 250 persons to the workshop. To this end a few members of staff from the councils should be selected for training, after which they can go back and train the rest of the staff. Those selected should include valuers, lawyers, engineers and those in the finance department.

The training should be done for a period of two weeks and topics covered should include the following: The role of the local government, central government, tax systems and reforms in the local government. In the second week emphasis can then be laid on property taxation and taxation legislation and the objectives and course content of the course offered in Nakuru in 2008 being maintained. Periods of questions and answers should be provided for. Out of this training the local authorities examine the quality assurance measures employed in the land valuation system used for rating purposes and secondly the handling of objections to valuations including the provision of information to potential and actual objectors.

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