State of Housing Report
VOLUME 2

Is Government Faltering on its’ Big 4 Housing Promises?

NOVEMBER 2019
# Table of Contents

List of Abbreviations and Acronyms ........................................................................................................................................ 4

Executive Summary ................................................................................................................................................................. 5

Methodological Note .............................................................................................................................................................. 8

1.0 Background ...................................................................................................................................................................... 9

2.0 Introduction ...................................................................................................................................................................... 10

3.0 “Losing Steam?” - Implementation of the Housing Agenda by Counties ........................................................................ 11
   3.1 Nairobi’s County effort in implementation of Big Four Agenda .................................................................................. 11
   3.2 Have Big 4 Projects Taken Off in Mombasa County? ................................................................................................. 17
   3.3 Implementation of the Housing Agenda by Kisumu County ........................................................................................ 20
   3.4 National Government Initiatives to Support the Housing Programme ........................................................................ 21
   3.5 Summary of insights on implementation of the Big 4 Housing Agenda ...................................................................... 24

4.0 “Whose Finance Problem are we Solving?”
   Housing Finance Models in Kenya .................................................................................................................................... 25
   4.1 Introduction ................................................................................................................................................................. 25
   4.2 Public Rental Housing Financing .................................................................................................................................. 25
   4.3 Tenant Purchase ............................................................................................................................................................ 25
   4.4 Loan Financing From Banks .......................................................................................................................................... 26
   4.5 Mortgages ...................................................................................................................................................................... 28
   4.6 Housing Finance by SACCOs ....................................................................................................................................... 29
   4.7 Off Plan Purchase of Housing ....................................................................................................................................... 30
   4.8 Individual Income and Savings ..................................................................................................................................... 31
   4.9 Kenya Mortgage Refinance Company ........................................................................................................................... 32
   4.10 Summary of Reflections on Housing Finance in Kenya ............................................................................................... 33

5.0 “Citizens or Trash?” - Housing Evictions Boom in Kenya ............................................................................................... 35
   5.1 Introduction .................................................................................................................................................................. 35
   5.2 Recent Spate of Evictions in Nairobi, Mombasa and Kisumu ...................................................................................... 36
      5.2.1 Recent Evictions and Threats in Nairobi ................................................................................................................. 36
      5.2.2 Recent Evictions and Threats in Mombasa .............................................................................................................. 40
      5.2.3 Kisumu Evictions and Threats ............................................................................................................................... 43
   5.3 Causes, Impacts and Alternatives to Evictions ............................................................................................................ 46
   5.4 The legal framework for evictions ............................................................................................................................... 48
   5.5 Community Organising ................................................................................................................................................. 49
   5.6 Summary of Insights on Evictions ................................................................................................................................ 49

6.0 “Where Do We Start?” - Solving the Housing Challenges in Kenya ................................................................................ 51

References ............................................................................................................................................................................. 53

Appendix 1: Key Informants .................................................................................................................................................. 55
# List of Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAHF</td>
<td>Centre for Affordable Housing Finance In Africa</td>
</tr>
<tr>
<td>CBD</td>
<td>Central Business District</td>
</tr>
<tr>
<td>CECM</td>
<td>County Executive Committee Member</td>
</tr>
<tr>
<td>CIDP</td>
<td>County Integrated Development Plan</td>
</tr>
<tr>
<td>CO</td>
<td>Chief Officer</td>
</tr>
<tr>
<td>COPA</td>
<td>Coalition for Peace in Africa</td>
</tr>
<tr>
<td>CS</td>
<td>Cabinet Secretary</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>CSUDP</td>
<td>Civil Society Urban Development Program</td>
</tr>
<tr>
<td>DAG</td>
<td>Development Action Group</td>
</tr>
<tr>
<td>FSD</td>
<td>Financial Sector Deepening</td>
</tr>
<tr>
<td>GLTN</td>
<td>Global Land Tools Network</td>
</tr>
<tr>
<td>KENSUP</td>
<td>Kenya Slum Upgrading Program</td>
</tr>
<tr>
<td>KISIP</td>
<td>Kenya Informal Settlements Improvement Program</td>
</tr>
<tr>
<td>KMRC</td>
<td>Kenya Mortgage Refinancing Company</td>
</tr>
<tr>
<td>NHC</td>
<td>National Housing Cooperative</td>
</tr>
<tr>
<td>MoUs</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>SACCO</td>
<td>Savings and Credit Cooperative Society</td>
</tr>
<tr>
<td>JV</td>
<td>Joint Venture</td>
</tr>
<tr>
<td>KeNHA</td>
<td>Kenya National Highway Authority</td>
</tr>
<tr>
<td>KfW</td>
<td>“Kreditanstalt Für Wiederaufbau” / Credit Institute for Reconstruction</td>
</tr>
<tr>
<td>KISIP</td>
<td>Kenya Informal Settlement Improvement Programme</td>
</tr>
<tr>
<td>KMRC</td>
<td>Kenya Mortgage Refinance Company</td>
</tr>
<tr>
<td>KNBS</td>
<td>Kenya National Bureau of Statistics</td>
</tr>
<tr>
<td>KPLC</td>
<td>Kenya Power and Lighting Company</td>
</tr>
<tr>
<td>KUSSCO</td>
<td>Kenya Union of Savings and Credit Cooperatives</td>
</tr>
<tr>
<td>LAPPSSET</td>
<td>Lamu Port-South Sudan-Ethiopia-Transport Corridor</td>
</tr>
<tr>
<td>MAWASCO</td>
<td>Mombasa Water and Sewerage Company</td>
</tr>
<tr>
<td>NACHU</td>
<td>National Co-operative Housing Union</td>
</tr>
<tr>
<td>NAMSIP</td>
<td>Nairobi Metropolitan Services Improvement Projects</td>
</tr>
<tr>
<td>NCA</td>
<td>National Construction Authority</td>
</tr>
<tr>
<td>NEMA</td>
<td>National Environment Management Authority</td>
</tr>
<tr>
<td>NPLs</td>
<td>Non-Performing Loans</td>
</tr>
<tr>
<td>NSSF</td>
<td>National Social Security Fund</td>
</tr>
<tr>
<td>PML</td>
<td>Primary Mortgage Lender</td>
</tr>
<tr>
<td>PPP</td>
<td>Public Private Partnerships</td>
</tr>
<tr>
<td>RBA</td>
<td>Retirement Benefits Authority</td>
</tr>
<tr>
<td>SDGs</td>
<td>Sustainable Development Goals</td>
</tr>
<tr>
<td>SEC</td>
<td>Settlement Executive Communities</td>
</tr>
<tr>
<td>SPV</td>
<td>Special Purpose Vehicle</td>
</tr>
<tr>
<td>STDM</td>
<td>Social Tenure Domain Model</td>
</tr>
<tr>
<td>UNHCHR</td>
<td>United Nations High Commissioner for Human Rights</td>
</tr>
</tbody>
</table>
Executive Summary

This report discusses three interrelated issues. It assesses the state of implementation of government’s Big 4 housing projects in Nairobi, Mombasa and Kisumu, which has generally slowed down for a number of reasons. It considers different ways through which housing is funded in the cities noting that there is a mismatch between the proposed funding mechanisms by government and the actual financial needs of the people. As currently configured the housing finance mechanisms are unlikely to impact the target population. It considers evictions, noting that these seemed to peak in 2018, apparently inspired by “the Big 4” housing agenda. Although there is reprieve on that end because of slow down in implementation and court cases; new eviction impetus is gathering pace, linked with infrastructure projects, national government parastatals’ work, private developers and urban regeneration programme by counties. On evictions, the paper notes that there tend to be better compliance with the law when the programmes involve international development partners, and more breaches where the project involves national government, county government and the private sector. The main support communities have now against forced eviction are community based human right defenders, who are operating with many challenges and limitations.

Implementation of the Big 4 Housing Agenda / Readiness by the Counties

The report looks at the various efforts by Nairobi, Mombasa and Kisumu County to implement the Big 4 Housing Agenda. It reviews the state of implementation of the programmes at County level comparing this with the Volume 1 Study that was undertaken more than a year ago. The study discusses the plans that Nairobi County had for affordable housing and social housing. It notes that the first project is starting in Pangani, with a possibility of two others following soon. There are concerns that the Pangani project is unlikely to meet government requirements for the target beneficiaries, with the rest likely to follow soon. Apart from these initial efforts, the County has put in place Urban Housing Renewal and Regeneration Policy and Urban Renewal Implementation Strategy. The City is investing in consultancy services but there is no provision in the budgets for housing construction.

Mombasa, similarly, planned to start development of 3,000 units scaling up eventually to 30,000 units within this planning period, 2018-2022. The County also planned to develop social housing in 10 council estates. In its’ CIDP Mombasa allocated 9 billion for housing development, but actually no part of this money has ever been allocated in the Annual Development Plan or budgets. Like, Nairobi Mombasa has so far focused on “software” issues, namely: Housing Policy, Transaction Advisors, reconnaissance surveys, data collection, design of the housing units and training on building typologies. None of the MoUs that had been signed with prospective developers has translated into actual contracts.

Kisumu follows the same pattern, seen in Nairobi and Mombasa. The County is focusing on software issues of housing policy and buildings audit. None of the capital-intensive projects, like refurbishment of institutional housing, redevelopment of old government housing has taken off. There are on-going discussions with the National Housing Cooperation (NHC) to undertake a County Government Civil Servants Housing Scheme.

National government has also planned projects in all the three counties. There are advanced efforts to start initial projects in Nairobi (Park Road, Ngara) and civil servants housing scheme in Kisumu. National government is also at advanced stages in developing the Kenya informal Settlement Improvement Programme (KISIP 2), which all the three counties are looking up to for infrastructure, services and security of tenure. This has been slowed down because of need to clarify the roles of national and county governments in such localised urban interventions, which the county deem to be their Constitutional role. National government has also been able to establish the Kenya mortgage Refinance Company in collaboration with the private sector and with seed funding from the World Bank. Its potential is likely to be limited as discussed in the report. Meanwhile national government has scored on a number of financial incentives to the private sector through the Finance Act 2019. Despite these achievements, the government is far from realising even 5% of its ambitious agenda.
Towards Effective Housing Finance for the Urban Majorities

The report provides an analysis of off plan purchase of housing, and the reasons behind its quickly diminishing popularity as a financing model for housing. It also provides an analysis of other financing models including SACCO loans, mortgages, and bank loans, loans from microfinance institutions, personal savings and “chamas”. The report considers the Kenya Mortgage Refinance Company and its potential for advancing the government’s Housing Agenda and adequate housing for all, despite the limitations of being new.

Majority of the current housing finance models being applied in Kenya have been found to be inadequately responsive to the prevailing housing demand and end user market characteristics. There is disconnect between the financing mechanisms touted by government versus the homebuyers economic reality. Mortgage numbers have been stuck between 20,000 and 26,000 for the last 10 years; with most homebuyers disqualified on the basis of the payroll. With only 76,000 people in the country earning above Kshs 100,000, and average mortgages of 10 million, the current mortgage market is almost exhausted. We await to see whether KMRC will address the mortgage gap, i.e. people earning between Kshs 50,000 to Kshs 100,000, who represent some 600,000 people.

How do people actually finance their houses? The study shows that people fund their housing mainly through savings and savings linked credit, employing incremental construction. Incidentally, this is what developers are exploring in the Pangani project in Nairobi. A significant number also finance their housing through SACCO loans. These remain unsupported through policy as government prioritises mortgages.

State of Evictions in Nairobi, Mombasa and Kisumu Cities

Evictions have been rampant lately in Nairobi, Mombasa and Kisumu mainly as a result of infrastructure projects. In Nairobi, there have been recent evictions associated with redevelopment of housing under “the Big 4 Agenda”. There were also notices that were served on several estates around the city. These have been set aside through verbal orders of the Governor, who has also indicated that resettlement must be done first.

The report notes that infrastructure development is the biggest cause of evictions. The many threats of evictions linked to the Big 4 housing agenda remain. Generally evictions procedures and regulations are ignored unless it is international development agencies and partner funded projects, e.g. through the World Bank, European Union, African Development Bank. Pattern of cases show illegality of most evictions undertaken by Government and the private sector. Some philanthropy is extended by County Governments, but this is not enough to meet the legal requirements for evictions.

Searching for Solutions

The study recommends to the counties to consider pragmatic ways of engaging the private sector, national government agencies, development partners and local investors to jump start housing for their people. They need to consider practical incentives they can give, e.g. planned land, type plans, ease of approval, collaborating with CSOs, etc.

Counties should also invest in gradual improvement of their informal settlements through allocation of resources for infrastructure and services and tenure security. These infrastructure and service investments, together with security of tenure will attract investors to these areas who will improve housing conditions. National government through KISIP 2 can also make a significant contribution. Communities need to organise to enable their voice and partnership to be tenable and effective.

Currently housing finance approaches being pursued by government are not aligned with the type of incomes of the low income; they can’t work for persons outside of formal employment. The compulsory contributory scheme to the Housing Fund has been challenged in court further delaying its’ operationalization. The study notes that the mortgage gap, both for middle-income earners in government and private sector, can be addressed through the
KMRC. Government should consider expanding the benefits of the Civil Servants’ Housing Scheme to the lower cadres; this will go along way in reducing demand for housing.

Housing finance will only be unlocked significantly if government considers how people are actually building then developing financial mechanisms to support the same. People are building incrementally, mainly through personal savings (54%) and savings mainly through SACCOs (11%). This is the same model being proposed by some developers in the Big 4. Savings linked credit should be a key pillar of housing finance in Kenya.

On evictions there is need to follow due process. It is disturbing that national and county governments are the major culprits on violation of citizens’ rights through forced evictions. These governments are able to follow these guidelines when funding is coming from international agencies, while flouting its’ regulations for self-funded infrastructure projects. Tokenism by County government cannot replace the rule of law. For social movements there is need to organise communities to protect their rights during evictions and post evictions. A disunited community is very vulnerable.
Methodological Note

The study involved review of secondary data, including published documents, and grey literature, e.g. government policy and project documents, and presentations from experts and communities. The study also involved various types of interviews, from face to face through telephone interviews and email exchanges. There were also people who were not interviewed directly, but participated in 2 workshops that had been arranged by ESCR – Haki Jamii during the time of this study, and their inputs were found useful for the study. Those engaged have been listed in Appendix 1.

The research team attended two workshops organised by Haki Jamii dealing with most of the topics discussed in the report. One was between the 29th of July and the 2nd of August 2019 where housing finance, evictions and community mobilisation was discussed in depth mainly with human rights defenders. A second one was held on the 7th and 8th October 2019 where housing rights, finance, evictions and state of implementation of Big 4 Housing Agenda was discussed. Participants in the second workshop were drawn from national and county governments, civil society and community leaders. Reports from these meetings were also availed and used by the consultants. A number of interviews were done on the sidelines of the two workshops, especially with community members.

Information from literature, interviews and meetings were triangulated and used to verify the authenticity of information. A draft report was developed which was shared with the client for input. Gaps were identified which were then addressed in the final report.
1.0 Background

The report titled “State of Housing in Kenya: Will Government Strategy Deliver On Social Housing?” by ESRC-Hakijamii conducted an assessment of the right to adequate housing in Kenya in the backdrop of the government’s Big Four Agenda. Specifically, an in-depth analysis of social housing as a sub-component of housing under the Big Four Agenda was done. The results of this assessment as presented in Volume One of the State of Housing in Kenya Report indicate that while substantial efforts have been made at national and county government level, the right to adequate housing still remains a dream for many urban dwellers in Kenya, especially for low income earners and those living in urban informal settlements in Nairobi, Mombasa and Kisumu. This conclusion is in part due to a prevailing inadequate understanding and lack of common ground by government at county and national level on what constitutes social housing.

Another deficiency presented in the State of Housing in Kenya Volume 1 report is the financing strategies for proposed ‘affordable’ and ‘social’ housing under the Big Four Agenda where market based approaches for financing and delivery of housing, including through public private partnerships, have been adopted. These market based financing models had seen government offer subsidies through providing land for housing development and establishment of various tax incentives for private investors and developers involved in the development of affordable housing. It was noted that affordability would still be a challenge given profit motivation of private developers and investors.

Additionally, the State of Housing in Kenya Volume 1 report noted general inadequacies in county preparedness and capacity for operationalization of the Housing Agenda, where a number of gaps were identified around the framework for implementation and delivery of affordable and social housing in the three counties of Nairobi, Mombasa and Kisumu. In Nairobi County where the approach to social housing has been in part redevelopment of old local authority housing estates, gaps were identified in the strategy being employed to identify expected beneficiaries of resultant social housing, and how to establish the legitimacy of the identified beneficiaries, as there was no updated documentation of current occupants of the housing estates, and no legally binding tenancy agreements between the current occupants of the housing estates and the county.

Volume 1 Report also identified the issue of evictions as a threat to access to right to housing, especially where social housing has been conceptualized as upgrading of existing urban informal settlements. Threats and notices of evictions had been issued to residents of those urban informal settlements despite the fact that they were supposed to be the target beneficiaries of proposed social housing. In recent cases of evictions parties laying claim on land in informal settlements have often moved to quickly and forcefully eject people from land without providing alternative land for housing and access to other human rights, without establishment of a proper compensation strategy, without proper and adequate consultation and mutual agreement with residents in urban informal settlements and without regard to human dignity as provided for in national and international law.
2.0 Introduction

Building on the findings of the State of Housing Report Volume 1 and the emerging issues within the housing sector, “The State of Housing Report Volume 2” intends to continue promoting in-depth analysis on the right to housing developments in Kenya. The country has made positive strides towards promoting realisation of right to adequate housing. This notwithstanding, there are inadequate policy and legal frameworks to guide its implementation. There are concerns about transparency and accountability relating to the projects. There are also overlaps of duties and responsibilities between the county and national governments that need refining.

This report, the State of Housing in Kenya Volume 2 evaluates the progress on implementation of the Housing Agenda under “the Big Four” against targets and resolutions earlier expressed by county and national government officials during the State of Housing in Kenya Volume 1 study, including progress made towards formulation and implementation of policy towards operationalization of the Housing Agenda.

The report evaluates gains made by counties towards implementation of the government’s Housing Agenda, as well as analyse the capacity of counties to achieve the goals of the Housing Agenda, including a look at county spatial and infrastructure development strategies and policies, as well as financing strategies and proposals that advance the Housing Agenda, and their level of implementation. The report also identifies inherent deficiencies and obstacles towards implementation of the housing agenda, and makes recommendations towards effective implementation of the agenda.

The report provides an analysis of off plan purchase of housing, and the reasons behind its quickly diminishing popularity as a financing model for housing, as well as its inherent and related inadequacies to secure the right to adequate housing in the Kenyan context. Other financing models are also reviewed including SACCO loans, mortgages, and bank loans, loans from microfinance institutions, personal savings, “chamas” and collective contributions by residents in urban informal settlements. Additionally, the report provides an analysis of various government efforts and models for financing of affordable and social housing including the Kenya Mortgage Refinance Companies.

Special attention is given to housing evictions in this report. The report undertakes an analysis of recent housing and land evictions in Nairobi, Mombasa and Kisumu. These seem to have increased in the last two years. The report makes suggestions on how evictions can be addressed both by the government and communities.

The report is organised in five sections, excluding this Executive Summary. The first part is the introduction, followed by the background of the study. The third section considers the implementation of Big 4 Housing Agenda including the County’s preparedness to implement the same. The fourth section discusses various housing finance models. The fifth section discusses evictions. The last section highlights starting points of possible solutions.
3.0 “Losing Steam?” - Implementation of the Housing Agenda by Counties

In this section the report discusses the limited gains made by counties towards implementation of the government’s Housing Agenda, as well as analyse the capacity of counties to achieve the goals of the Housing Agenda, including a look at county development strategies and policies, as well as financing strategies and proposals that advance the Housing Agenda, and their level of implementation. The report also considers the initiatives of the national government and its agencies in implementing housing programmes in the three counties of Nairobi, Mombasa and Kisumu. It identifies and assesses inherent deficiencies and obstacles in county strategies and policies towards implementation of the housing agenda, and makes suggestions how some of these bottlenecks can be dealt with.

3.1 Nairobi’s County effort in implementation of Big Four Agenda

Phase one affordable housing in Nairobi

Sessional Paper Number 1 of 2018: “Urban Renewal and Regeneration Policy” guides the redevelopment of old council estates in Nairobi City County. It accords importance to diversification of land use and provision of adequate infrastructure and services. It requires effective public participation, specifically requiring involvement of tenants of the old council estates and the general public, in the redevelopment processes. It promotes optimal land use, affordability of housing units, mixed use development with adequate social amenities, like schools, clinics, playgrounds, etc. The policy requires that new units developed under the urban renewal programme have to be offered to residents first, before being availed to the general public.

Nairobi City County Assembly, in approving the session paper, resolved that all housing contracts for the City of Nairobi would have to be aligned with this policy. By the time of its adoption six developers had already signed contracts with the County – these were done in 2016 – to deliver Phase 1 of the Urban Renewal Programme. The County had embarked on its’ housing agenda with feasibility studies and expression of interest for redevelopment of seven estates, namely: Pangani, Old Ngara, New Ngara, Jeevanjee / Bachelors, Ngong Road Inspectorate, Suna Road and Uhuru Estates. All these projects started before the Big 4 housing agenda. But they have now been aligned to the agenda of affordable housing. Below is the outline of the projects.

Directline Assurance Limited signed to develop the Suna Road housing project with 585 houses and 3000 market stalls in 2016. Their bid for the housing units was for Kshs 3.5 billion; excluding the cost of land and resettlement. This would average Kshs 5.98 million per unit, which is quite high given the affordable housing ceiling of Kshs 3 million. In 2019, it was noted that most clauses in their contract were not in sync with the Urban Renewal Policy. Following discussions with the Assembly Committee on Land and Housing and the Executive, the contract was updated and re-confirmed in May 2018.

Stanlib Kenya Limited signed to undertake development of one, two and three bedroom units in Uhuru Garden in 2016. They were to construct 1,890 units in 7.5 acres of land, 400 of which were to be allocated to the County. Their agreement indicated that the County would put a 20% mark up on price of houses. This contract was reconfirmed on the 5th of June 2018.

Jabavu Village Limited – affiliate of Hass Petroleum signed to undertake development of Jeevanjee and was allocated 1,564 units in 2015 for a bid sum of Kshs 9.3 billion; averaging Kshs 5.94 million per unit, excluding the cost.

---

2 ibid, page 16
3 ibid, page 17
4 ibid, page 20
of land and resettlement. 60% of the units were to be developed as social housing and 40% as affordable housing. The ceiling for the two categories is Kshs 900,000 for social housing and Kshs 3 million for affordable housing. Land was transferred to the special purpose vehicle (SPV). They were to split the units 20%: 80% between County and Developer respectively. Renegotiation was proposed and done. The contract was reconfirmed in 2019.

**Green Erderman Property Limited had been awarded Ngong Road Phase 1** to build some 4,068 housing units on 12.5 acres land worth Kshs 4 billion and construction costs of Kshs 25 billion, translating to Kshs 6.15 million per unit. The County was to take 848 units. Phase 1 contract was signed on 17th August 2018. In Phase 2, Green Erderman had proposed a project with land value of Kshs 4 billion construction costs of Kshs 23 billion, with the County getting some 20% of the units. Ngong Phase 1, It was agreed that there would be subleases to the SPV with the mother titles being held by the County. Further, the final development would be subject to KCAA approvals.

Lordship Africa was awarded Ngong Road, 2,500 units at a bid price of Kshs 24 billion, averaging Kshs 9.6 million per unit, 3 times the ceiling for affordable housing. Erderman opposed the award in court, winning first round. Lordship Africa appealed the ruling and lost in a the Civil Case Number 35, whose ruling was delivered on 5th April 2019 and confirmed that the County had flouted the tender process in favour of Lordship Africa. Therefore Ngong Road phase 2 remains in limbo as at the time of writing this report.

**Green Prestik Limited was awarded the Old Ngara Estate for redevelopment.** Their contract permitted them to increase the cost of the units. Further, it indicated that the 73 existing tenants to be compensated at Kshs 30,000 per month. Relocation and compensation of the existing tenants was to be done by the County. Further, it wanted their Joint Venture agreement to be confidential contrary to the city’s own Public Participation Act no 11 of 2015. The contract also ran into problems as civil aviation recommended reduction of design heights from 68 to 42 metres.

**Kenya Commercial Bank (KCB) / Savings and Loan was awarded the New Ngara Estate.** They put in a bid of Ksh 9 billion to put up 1,500 houses in the area, in 2015. The average cost per unit is Kshs 6 million. Their contract was reconfirmed in 2018.

The most advanced of the redevelopment projects is **Pangani Estate.** It was awarded to Technofin Kenya Limited (part of Sovereign Group) to develop 1,434 houses. Land was transferred to a special purpose vehicle. The agreement indicated that they would sell 40% of the units at market rates and 60% would be allocated to low cost subsidised units. Their agreement was not in line with the Nairobi County Urban Renewal and Regeneration Policy, which required that 70% of the housing would be available as affordable housing. Their contract was reconfirmed on 1st of February 2019. After this the County paid Kshs 600,000 cash compensation to some residents, some residents allege they were not compensated and they are currently in court challenging the decision of the county. The site was handed over to the developer in July 2019. Despite these activities construction had not started by the time this report was prepared. This is linked with exploration of end user financing by the developer. Land title transfer to the JV also took some time, including revising the duration of the lease through the National Land Commission process.

Pangani compensation was equivalent to two years of rent. The units owned by the county were to be rented for Kshs 10,000 per month; while that of the developers, 3 bedroom units, was to be let at Kshs 40,000. The units were

---

5 ibid page 23  
6 ibid, page 25  
7 ibid, page 25  
8 Nairobi City County Assembly (2019) Report of the Sectorial Committee on Planning and Housing: Minutes 14th February  
10 ibid page 24  
11 ibid page 26  
12 ibid page 26  
13 ibid, page 22  
14 ibid, page 26  
15 Nairobi City County Assembly (2019) Report of the Sectorial Committee on Planning and Housing: 1st February.
shared 30:70; County: Developer. End user financial arrangements are still being explored. The developer proposed that all buyers be registered members of Stima SACCO, which the county found unacceptable. Later it was agreed that membership to any SACCO was acceptable. Further the developer proposed an off plan payment arrangements with the buyers, where they would do a down payment of 40% of the costs; followed by three equal instalments during the construction of 20% each.

Despite these the developer has gone ahead to put an advert for these houses through the real estate firm Regent Management. Regent Management has put requirements that open up both the government units and those owned by the private sector to high-income individuals, earning net salaries of up to Kshs 149,999, incidentally that is in line with the County Urban Regeneration Policy.

There was delay from 2016 until 2019 as a consequence of a number of issues. As highlighted above the County decided that the contracts be aligned with the Session paper Number 1 of 2018 on Urban Housing Renewal and Regeneration Policy 2018. The county policy indicated that individuals targeted should be earning Kshs 150,000 and below; this actually below the national government guidelines of Kshs 100,000 and below. The County also decided to manage own projects outside the national programme. It committed to provision of decanting sites as the first approach to resettlement during construction instead of compensation. The county further decided that elected leaders be involved in the project Steering Committee (PSC). Other causes of delays included court cases between tenants and the County; lack of community consensus on relocation and compensation; delays in processing the new land leases and sub-leases. In terms of design, all the projects have been scaled down from original 36 storeys to 14 storeys, mainly because of Civil Aviation requirements and also the requirements from the Eastleigh Airbase.

Citizens also presented several memoranda to the County on the redevelopment. Various tenants association prepared MoUs with the County on these bases, e.g. Jeevangee and Umoja Old Ngara Estate Association presented their MOU’s to the County. The central proposal was that no tenant is displaced and that each tenant is allocated 2 units which is contrary to the national policy of one house per family. They demanded that an inventory of sitting tenants be developed in collaboration with the county and agreed by both parties. They suggested that the housing units be sold at the cost of construction only, eliminating the cost of land and other processes like professional fees, which they indicated should come in the form of subsidy. They suggested that houses be sold on the basis of tenant purchase schemes based on old monthly rents. It was noted that the Draft Tenancy agreements prepared by Malonza and Associates in 2019 had a payment period going on until 2030, just slightly over 10 years, which would increase the monthly repayments.

Following submissions and public participation forums by the citizens between 2015 to 2018, Nairobi City County Government made the following commitments:

- Affordability would be guaranteed through tenant purchase scheme at cost of construction to sitting tenants;
- First priority will be given to sitting tenants to either purchase or rent units;
- Security of tenure would be provided through non-displacement, tenant purchase agreements and letters of offer for the same; rentals for future generations and memoranda of understanding with existing tenants;
- Tenants inventories to be completed;
- Illegal structures to be demolished; owners are not bonafide beneficiaries of the project;
- Rent arrears to be cleared prior to receipt of relocation facilitation;
- Relocation facilitation will cover 24 months of rent for sitting tenants; and
- A 60-day notice will be given for vacation of the site; facilitation will be done within the first 30 days of notice; developers will get vacant possession of sites after 60 days.

16 ibid, page 33
Phase 2 Affordable Housing in Nairobi

Phase 2 was to involve redevelopment of Uhuru, Buruburu, Harambee, Huruma, Bahati, Landi Mawe, Mbotela, Makadara, Jericho, Maringo, Lumumba, Ofafa, Kaloleni, Shauri Moyo, Gorofani, Bondeni, Landhies Road, Embakasi, Kariobangi North, Kariobangi South, Jerusalem, Ziwan, Woodley and Embakasi. The planning of redevelopment of Eastlands in its entirety has started with award of the project to Realplan Town and Regional Planners. The programme is a collaborative effort between the World Bank and the county, and is funded as part of the NAMSIP Programme. In addition to the planners, the County has advertised for procurement of Advisory and Technical Design Services. It is expected that this will also involve community engagements. Development of architectural and structural plans and the bills of quantities will be done before expression of interest for developers. County Government is keen to ensure that there are limited variations to the plans once approved so they are taking charge of this process. Further, the county intends to cushion the developer from government bureaucracy and community dynamics. County officials interviewed think that the planning for Phase Two will go on until 2022 and do not expect any construction to start before then.

Social Housing in Nairobi

The National Government, Directorate of Housing, had proposed development of social housing in Kibra, Mariguini and Kiambi slums: 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 Kiami. In 2018 Nairobi was also exploring development of social housing in Kati, City Carton Buruburu, Githogoro, Mji wa Huruma, Mukuru, Fuata Nyayo, Kisi, Site Village, Hazina Sokoni, Mailisaba, Mihango, Mwengeny, Juakali, Kibera, Mahira, Huruma Ex Grogen, Kahonoki, Kiamutisya, Babadogo, Kasabuni, Kariadudu, Gathecha, Lucky Summer, Glu Lucky Summer, Korogocho, Ngunyum, Muriambogo and Kairia. Some of these initiatives were to be done in collaboration with the national government. For example, through KISIP infrastructure, services and security of tenure is expected to be done in Njiru, Kinyago, Kanuku, Kambi Moto, Kosovo, Mathare B, Mathare Bashimoni, Kitui Village, Embakasi, Ghetto, Gitathuru, Redeemed, Kahawa Soweto, Mji wa Huruma, etc. Not much work has been done by the County or national government on this phase, since there are still negotiations about implementation of KISIP 2 and the County does not have a budget for slum upgrading.

Good Intention, Limited Implementation: the Case of Nairobi County

In December 2018, Nairobi County government published the Urban Housing Renewal and Regeneration Policy that was to guide the renewal of the old city housing estates. The County’s planning documents; CIDP 2018-2022 and the County ADP 2019/2020 also highlight the provision of decent and affordable housing. The County government developed a Draft Housing Policy, which is yet to be validated and approved by the County Assembly. The progress report of Eastland’s Master Plan was presented to the Planning and Housing Committee of the Nairobi County Assembly. It now awaiting facilitation for its completion. No budgetary allocation has been done for the same.

The County has prepared the Urban Housing Renewal and Regeneration Policy (draft) which is the long-term policy framework for the sustainable and continuous resolution of the myriad social, habitational, structural, physical planning and land use problems facing the old estates. The city also developed an Urban Renewal Implementation Strategy. The strategy proposes an analysis of the prevailing social, economic and physical characteristics of target estates, generation of the vision for the renewal project and identification of the renewal interventions required for each target estate. A comprehensive plan is to be developed to direct implementation of the renewal projects. The plan shall have three main components: framework plan, master plan and institutional arrangements.

18 Nairobi City County Assembly (2019) Report of the Sectorial Committee on Planning and Housing: 1st February. pp25
21 Nairobi County (2019) Land, Urban Planning, Urban Renewal, Housing and Building Services, NCCG Website: https://nairobi.go.ke/
22 Nairobi Urban Housing Renewal and Regeneration Policy 2018, Page 32
The County’s strategy for housing delivery involves government’s delivery of land and public infrastructure (such as public parks and transportation improvements), leaving the private sector to deliver the buildings. In this arrangement the county will earmark the old estates eligible for renewal; procure the land to be redeveloped; be actively involved in planning for the renewal projects; and direct the renewal projects. To ensure the successful implementation of the renewal plans, the County intends to undertake the following:

a) Provide the necessary political leadership required to see the renewal project to completion;

b) Sell the vision of the renewal project to the local residents;

c) Build residents’ support of the renewal projects;

d) Leverage public and private capital required for up-front investment in the renewal projects; and

e) Map out the life cycle of the renewal, including the expected date of handover.23

In its CIDP 2018 -2022 Nairobi County government aims to increase supply and access to decent affordable housing and optimize economic use of prime land. The County plans to undertake urban renewal on 22 County Estates.24

As reflected in the table below, the CIDP stops at procurement of Technical Services and Transactional Advise. This implies that the county will rely 100% on the private sector for the implementation of the programme. It further implies that an acceptable legal framework will have to be agreed with the private partner. Further the private partner should be able to fund the programme’s construction phase in total on their own. These are issues rife with complexities given the current framework of PPP, which the national government has yet to simplify.

Table 1: Housing projects plan in the Nairobi CIDP 2018-2022

<table>
<thead>
<tr>
<th>OUTPUT Activities</th>
<th>Indicators</th>
<th>Planned Targets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing units developed</td>
<td>Procuring technical consultancy services</td>
<td>Year 1 Year 2 Year 3 Year 4 Year 5 Budget</td>
</tr>
<tr>
<td></td>
<td>No of technical consultancies procured</td>
<td>8 4 3 0 0 200 Ksh Million</td>
</tr>
<tr>
<td>Developing of Nairobi City County Housing policy</td>
<td>Operational County Housing policy</td>
<td>- 1 - - - 60</td>
</tr>
<tr>
<td>Facilitating development of Eastlands Urban Renewal</td>
<td>Eastlands Urban renewal master plan developed</td>
<td>1 - - - - 20</td>
</tr>
<tr>
<td>Identifying developers for redevelopment</td>
<td>Number of development consortiums identified</td>
<td>9 4 3 - - 20</td>
</tr>
<tr>
<td>Procuring transaction advisory services for joint ventures with private sector on redevelopment.</td>
<td>Contracts signed</td>
<td>Continous Continous Continous Continous 100</td>
</tr>
<tr>
<td>Construction of housing units for decanting and redevelopment.</td>
<td>Number of housing units constructed</td>
<td>8,000 10,000 10,000 10,000 10,000</td>
</tr>
</tbody>
</table>

Current Plans to Implement the Housing Agenda

Table 2 below is an extract from the Annual Development Plan 2019 and 2020. It clearly demonstrates that the County’s budgetary allocation is only to facilitate preparatory and planning of housing development. The county entire housing programme is based on private sector funding, making the Government have limited control of its

23 Nairobi Urban Housing Renewal and Regeneration Policy 2018, Page 36
24 Nairobi County Integrated Development Plan 2018-2022, Page 119
success. The broader performance of the economy and the performance of the housing market, which looks dire with numerous foreclosures, therefore makes the Nairobi County Government potential success precarious. So far, as earlier noted, the City County achievements on social housing are limited to processes and plans. They include:

- A Concept Paper on Social Housing developed and approved;
- Cabinet Memo on development of Social Housing in Eastlands done, submitted and approved by CECM;
- The plan of this settlement is awaiting approval at Ministry of Lands;
- Draft leases for County rental houses have prepared in readiness for public participation; and
- Draft County Housing Policy has been developed and stakeholders engagement undertaken.

Table 2: Housing projects plan in the Nairobi ADP 2019/2020

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>OBJECTIVE</th>
<th>LOCATION</th>
<th>DESCRIPTION</th>
<th>EXPECTED OUTPUT</th>
<th>K.P.I</th>
<th>COST MILLIONS</th>
<th>TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban renewal</td>
<td>To increase access &amp; supply to decent and affordable housing</td>
<td>Pangani, Bachelor Quarter, Old Ngara, New Ngara, Ngong road Phase 1 &amp; 2 Uhuru green field, Suna road</td>
<td>Construction of housing units Form project Implementation Unit (PIU)</td>
<td>Monitoring and evaluation Evaluation team</td>
<td>Regular progress reports Pictorial evidence Progress and charts</td>
<td>40 million</td>
<td>1st July 2019 to 31st June 2020</td>
</tr>
<tr>
<td>Urban renewal Phase II</td>
<td>To increase access &amp; supply to decent and affordable housing</td>
<td>Ziwani, Bondeni, Bahati, Shauri Moyo, Gorofani, Jericho, Lumumba and Maringo</td>
<td>Construction of housing units -Launch project Formation of PIU Preparation of legal documents</td>
<td>Tenants purchase Agreement (TPA) letters of offer and leases</td>
<td>No. of TPA</td>
<td>10 million</td>
<td>1st July 2019 to 31st June 2020</td>
</tr>
<tr>
<td>Uhuru Renewal Phase III</td>
<td>To increase access &amp; supply to decent and affordable housing</td>
<td>Woodley Kaloloni, Mbotela, Karobangi North</td>
<td>Public participation 30 No of community engagement forums Formation 3 Residents Associations</td>
<td>Effective communication</td>
<td>Number of forums and meetings</td>
<td>15 million</td>
<td>1st July 2019 to 31st June 2020</td>
</tr>
</tbody>
</table>

In summary, more than two years into the Big 4 Housing Agenda, taking into consideration programmes that predated it, namely KISIP and the Nairobi County Urban Renewal Programme, there is very little to show for the City County’s efforts so far. The core issue is a complex strategy that involves PPPs that has so far delivered very little housing. This arrangement is rife with challenges from land acquisition, to legal approvals at different levels of government and financing such arrangements. The city itself suffers from limited budgetary allocations to fund its own processes, delays and inefficiencies in procurement of goods and services. This also affects payment of service providers. Other issues include lack of land documentation, encroachments and land disputes. There are also challenges relating to facilitation of relocation of tenants for urban renewal. Last but not least is political interference.
3.2 Have Big 4 Projects Taken Off in Mombasa County?

In 2018 Mombasa County highlighted various initiatives that were on going on social housing. These included:

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

Mombasa County had also proposed other social housing schemes through redevelopment of 10 old council estates, which are in very bad state (see Fig.4 below). By 2018 County officials had indicated that they were ready to start on the sites, namely Khadija, Miritini, Changamwe, Tudor, Mzizima, Buxton, Likoni, Nyerere, Tom Mboya and Kaa Chonjo. Designs for redevelopment of County houses had been done. The County has approximately 70,000 informal settlements with dilapidated houses and inadequate servicing. The goal for the county government is to refurbish old housing units and to redevelop existing housing units. The process seemed to have stalled at that point.

Like Nairobi, Mombasa County achievements in the land and housing sector in relation to “the Big 4” are limited to plans and intentions. At a higher level they include preparation and submission of Mombasa County Land Policy, preparation of Integrated Strategic Urban Development Plan and Gate City Master Plan. Preparation of the Valuation Roll, Zoning Regulations and County Housing Policy are still on going.

![County Houses in Tudor, Mombasa](image-url)

**Figure 2. County Houses in Tudor, Mombasa**

Actual plans and three D impressions were shown to the research team by County officials.
The County had engaged a Transaction Advisor; prepared plans for the redevelopment of old county houses and signed MoUs with private developers. These have been frustrated by slow government bureaucracy as also seen in Nairobi and currently most of the planned agreements with the private sector risk being cancelled with nothing to show for it.

The CIDP has identified various activities to be funded to improve the housing situation. Unlike the Nairobi CIDP, Mombasa actually gives provision for actual investment in housing, with Kshs 9 billions set aside for that purpose. This may be a case of unrealistic expectation and planning by the County, as it implies that each year some 1.8 billion would be invested in housing stock. So far nothing has been invested. Other areas like preparation of the Housing Policy, improvement of infrastructure in housing estates, etc. has happened to a limited degree. Table 3,4 and 5 are extracts from Mombasa County CIDP 2018-2022, demonstrating the County’s ambition to deliver housing. Two years into the implementation period and there of very little to show for it.

Table 3: Mombasa County Housing Allocations in the CIDP

<table>
<thead>
<tr>
<th>SUB PROGRAMME</th>
<th>KEY PERFORMANCE INDICATORS</th>
<th>BASELINE (2017)</th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>TOTAL BUDGET (KSH MILLIONS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing development</td>
<td>Increase in housing stock (units)</td>
<td>3000</td>
<td>5200</td>
<td>5200</td>
<td>5200</td>
<td>5200</td>
<td>5200</td>
<td>9,000</td>
</tr>
<tr>
<td>% Increase in access level</td>
<td>to decent housing by low income 4% to 10%</td>
<td>4</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>ABTs equipment</td>
<td></td>
<td>-</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>20</td>
</tr>
<tr>
<td>County housing administration</td>
<td>Housing policy, Acts and legislations²</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>20</td>
</tr>
</tbody>
</table>

Source: Author
Looking at the proposed budgetary allocations for this financial year (2019-2020), they confirm that indeed the County is not spending any money on housing per se. The entire Departments budget is only 4% of the overall county budget. A Housing Fund had been proposed but there is no progress on this matter. Activities are limited to preparatory works of survey, site inspections and development of regulations and by laws. Allocation for urban renewal is Kshs 25 million, which is meant to support development of Action Plans, Implementation Frameworks, Monitoring and Evaluation Framework and meetings. There is also allocation for Preparation of five plans for the Chaani, Kindunguni, Kisumu Ndogo, Mnazi Mmoja and Mafisini settlements with a total budget of Kshs 10 million. Other activities to be funded are: reconnaissance survey; preparation of base maps; data collection; preparation of situational analysis report and stakeholder meetings. The County allocates Kshs 30 million for redevelopment activities of old council houses through JV. The funds are allocated for inspection and reporting. Two other activities that attracted budgetary allocation are preparation of housing development control regulations and by-laws and conducting training on appropriate building technologies, which attracted Kshs 3 million and Kshs 15 million respectively.

By considering the county plans and activities going on the ground in the housing sector, we conclude that the County is unlikely to achieve its objective in redevelopment of the old Council estates within this planning period, 2018-2022. Pragmatic funding of the initiatives still remains a major challenge because projects of this magnitude such as the social infrastructure and resettling squatters require colossal amount of money. There is also challenge of access to suitable land for housing and security of tenure: the county has little or no vacant land reserved for future housing development since most of the public land has been allocated officially to private individuals and businesses or occupied illegally. There is also lack of access to housing finance and home acquisition facilities. The county also acknowledges these in its Annual Development Plan 2019-2020. Issues such as high cost of land, building materials, labor, cost of finance and taxes on real property are major bottlenecks to development of affordable housing. Inadequate planning and ineffective regulatory mechanisms and bottlenecks and complexities of public private partnership framework are other deterrents.26

---

26 Mombasa County Annual Development Plan 2019-2020
3.3 Implementation of the Housing Agenda by Kisumu County

Kisumu County had allocated 5 acres, in Mamboleo to be used as a decanting site for ‘the Big Four’ low-income housing development. Other locations are Nyalenda and Makasembo Estates. Kisumu had entered in several MoUs with private developers. Again 2 years down the line very little has happened. There is no support from National Government in implementing the housing programme. Further, there is no movement in the Public Private Partnership arrangements that the national government promised to address to enable ease of engaging in public private partnerships. The PPP process remains cumbersome with as many as 36 steps. County is not keen to translate those MoUs into binding agreements, since they think it is not value for money for their component relating to planning and public land. In some instances the stake of the county had been reduced to as little as 10%. The private sector on its part does not see real value in going through the cumbersome processes in the context of funding uncertainties and poor uptake of housing units as a result of broader macro-economic challenges facing the country.

Pragmatically, the county is exploring possibilities of having direct partnerships outside of the PPP arrangements with relevant public institutions and the private sector to advance the agenda. To that end there are on going consultations with the National Housing Corporation to invest in the county.

Like Mombasa and Nairobi, there is very limited budgetary allocation for housing per se, leave alone social housing and slum upgrading. The County’s Housing Department receives a paltry 2% of the County’s budget. Like Mombasa, the County has also proposed a Housing Fund, but again no progress has been made on this matter. The County also faces the challenges from the fact that 70% of the land therein is freehold, making it very difficult to impose plans and development control. Pragmatically, the County is looking forward to the National Government KISIP Phase 2 to improve infrastructure and services in some 14 settlements.

The County in its CIDP was looking forward to a number of activities from development of appropriate construction technologies (100m), construction of houses under Big 4 worth 1.5 billion through PPP with the pilots being done in Kibuye and Lumumba estates and an investment of 100m through the National Housing Corporation. The county planned to upgrade civil servant housing at a cost of 100m during the planning period 2018-2022. These programmes have all stalled for the reasons highlighted above. The County plans are highlighted on tables 5, 6 extracted from the CIDP.
Table 5: Housing policy interventions

<table>
<thead>
<tr>
<th>DEVELOPMENT ISSUES/CONCERNS</th>
<th>POLICY STRATEGY/ INTERVENTION</th>
<th>POTENTIAL GEOGRAPHICAL AREAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Unprecedented demographic, environmental, economic, social and spatial challenges</td>
<td>Development of County Spatial Plan</td>
<td>Kisumu city, Massena, Aero, Maharani, Chenille, Awash, Katipo, Kombewa</td>
</tr>
<tr>
<td>• Poor and inadequate housing</td>
<td>Installation of Traffic Management Infrastructure. Development and redevelopment of affordable housing. Redeployment of the Lake front project. Re-designed Urban Plan for the City.</td>
<td></td>
</tr>
<tr>
<td>• Poor drainage system within the City CBD and other major towns</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Rapid spread of informal settlements within the City and upcoming urban areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Traffic congestion in the CBD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Lack of recreational facilities in upcoming urban areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Insecurity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Poor Solid Waste Management</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Dilapidated urban housing and Infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Rapid urbanisation trends coupled with low investment in infrastructure impacting enormous pressure in the urban environment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 6: Programme name: Policy and housing infrastructure development

<table>
<thead>
<tr>
<th>SUB PROGRAMME</th>
<th>KEY OUTLINE</th>
<th>TOTAL BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Safety and quality audit of buildings</td>
<td>Improved safety and quality of the built environment</td>
<td>25 million</td>
</tr>
<tr>
<td>• Development of the county housing policy</td>
<td>Working county housing policy</td>
<td>10 million</td>
</tr>
<tr>
<td>• Refurbishment of institutional housing</td>
<td>Number of the improved institutional houses</td>
<td>100 million</td>
</tr>
<tr>
<td>• Promotion of appropriate building materials and technology</td>
<td>Incubation centres established. Application of the appropriate building technology in construction of houses. Established database infrastructure on building products, manufacturers and E- Library</td>
<td>100 million</td>
</tr>
<tr>
<td>• Coordination and implementation of national &amp; international agenda on housing and human settlements</td>
<td>New Urban Agenda; SDGs; UNGA, International trade Fairs, Shelter Afrique Annual General Meeting, Africa Union Specialized Technical Committee No 8, UN-Habitat</td>
<td>15 million</td>
</tr>
<tr>
<td>• Redevelopment of old Government housing/Urban renewal</td>
<td>Modernization of government housing</td>
<td>1.5 billion (PPP)</td>
</tr>
<tr>
<td>• County Government Civil Servants personnel housing scheme</td>
<td>Affordable housing units</td>
<td>100 million Government of Kenya NHC²</td>
</tr>
</tbody>
</table>

Should the County’s budget proposals go through the Assembly, the county proposes to undertake a few activities on housing. First, it proposes to develop its Land and Housing Inventory. This will include identification, description, enumeration and survey of county housing units. Kshs 3 million has been allocated for the activity. Secondly, the county proposes to renovate institutional and residential houses owned by the county, this will include refurbishment of residential buildings, repairs, renovations of institutional buildings, and design and documentation of institutional housing projects. This has attracted a modest budget of Kshs 10 million. Thirdly, the County proposes to design and build new residential units for Kshs 100 million.

3.4 National Government Initiatives to Support the Housing Programme

In order to realise its objective of housing provision for the Big Four, the National Government made commitments to transfer public land into a “land bank” starting with land currently owned by the East Africa Portland Company, Kenya Prisons and Kenya Railways. No progress has been made in this area. Government also undertook to develop
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. Nothing much has been achieved in all these areas.

It was noted that the ambitious one million housing plan had been started in a policy and legal vacuum. To meet the policy and legislative gap government planned 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);
- Review National Housing Corporation (NHC) Act; and
- Implementation of National Slum Upgrading and Prevention Policy.

In that list of commitments national government made modest achievements through the Finance Act 2019. Stamp duty for first time homeowners has been waived. Home ownership savings plan is now tax deductible. There is affordable housing relief on tax. There is zero rating of tax on construction materials for affordable housing. Foreign denominated investments in affordable housing will not attract withholding tax. Import declaration fee has also been removed.

Attempts to create a Housing Fund through development and gazettement of Regulations from the Housing Act run into legal headwinds and is still stuck in court. However, government continues to register potential homeowners on its Boma Yangu portal on voluntary basis, awaiting the case to be heard and determined. The government is also signing MoUs with investors, with the Permanent Secretary in the Ministry of Transport, infrastructure, Housing and Urban Development reporting that investors have made pledges of up to Kshs 2.2 trillion Kenya shillings to support the housing agenda.

National government is planning several projects in Nairobi County. These include: Park Road Ngara, where some 1,370 units are planned in 3 phases. Discussions with senior Government officials indicated that the Joint Venture agreements has been signed with the developer. The development will have one, two and three bedroom units and are to be constructed between October 2019 to October 2020. Other initiatives where national government is meant to lead include Starehe (3,000 units with kindergarten and shopping mall) to start in 2020; Kibera Soweto B (4,400 units including 2 nursery schools, a social hall and market stalls; 25% two-roomed unit; 75% one-roomed units). Mariguini informal settlement (2,600 units one, two and three rooms in 10-storey block, with nursery dispensary and community centre).

There are initial activities that have been started by the national government and development partners on housing in Nairobi. These include slum upgrading in selected informal settlements through collaboration between the County and the National Government, Ministry of Transport, Infrastructure Housing and Urban development. The programme runs from 2017 to 2025. It remains at feasibility stage.

Another area of collaboration between the two governments’ and development partners is in finalization of redevelopment feasibility study and redevelopment plan for Eastlands, Nairobi. This programme is to run from 2018 – 2022. It is stuck at inception phase. Further, the two governments intend to collaborate in provision of social housing in Mji wa Huruma, which is meant to run between 2017-2025.
Figure 5: Park Road Ngara

Figure 6: Kisumu Civil Servants housing, Shauri Moyo
National government is planning the development of 250 houses in Shauri Moyo Kisumu (see Fig.8 above). 40 will be for sale the rest will be rental. This is meant to be a purely civil servants’ scheme. It is unclear when national government intends to start this project. It is not clear what the development arrangements are. Other MoUs have been signed with a number of counties that are not subject to this study.

3.5 Summary of insights on implementation of the Big 4 Housing Agenda

From the analysis above there is slow down of the Big 4 housing agenda occasioned mainly by issues around land transfers, legal issues around Joint Ventures and the Housing Fund, reconciling the expectation of the private sector and those of government and court cases, among other issues. Given that only one project has gone to site at the point of writing this report, it is unlikely that 500,000 houses will be delivered by 2022. Change of strategy is necessary.

Despite that national and county government have made progress on policy, legal frameworks and programme planning. National government has instituted a number of fiscal incentives that will go along way in enticing the private sector to invest more in housing. The establishment of KMRC can also expand the mortgages significantly and if used properly can make significant impacts in addressing the mortgage gap, for employed Kenyans earning between Kshs 50,000 – Kshs 100,000.

Government should learn from its own programmes that have been relatively successful. The KISIP programme is one such programme that has delivered infrastructure and services in slums and informal settlements all over the country and also security of tenure to thousands of households. The residents of these settlements provide housing for themselves. Counties are looking forward to KISIP 2. In KISIP there are lessons of how right to housing can be realised at scale without necessarily using taxpayers’ money to do home construction.

There is need to consider engaging “the real builders of housing” in providing housing solutions. Those investing in illegal high-rise development could be supported to get out of these illegal spaces and provide legal housing in collaboration with the counties. These small private investors are the ones providing housing currently for almost all Kenyans.

Initial feedback on the projects being implemented indicate that there is need to refine relationships with the private sector so that they don’t subvert the intention of government in providing affordable housing. Initial adverts for housing in Pangani show that the private sector are only interested in the upper income both in terms of income of the targeted group and also in terms of payments. These are out of the each for the income group that government was targeting i.e. those earning below Kshs 50,000. The arrangements need further refinement.
4.0 “Whose Finance Problem are we Solving?”
Housing Finance Models in Kenya

4.1 Introduction
Inadequate access to housing in urban areas in Kenya, especially for the majority of low income households living in urban informal settlements, is underpinned by a number of challenges, key among which is the limited accessibility and availability of financing for housing. Majority of the current housing finance models being applied in Kenya are either inadequate or inappropriate. The challenge of housing finance in Kenya, as a key obstacle towards realisation of the right to adequate housing for all has been further exacerbated by a departure from a housing policy that dominantly promoted provision of housing by government through public rental housing and afterwards tenant purchase housing finance model mainly through the National Housing Corporation, to market driven housing finance dominated by money lending institutions, private developers and land owners, whose main motivation is profit maximisation.

While housing finance and delivery strategies by government through public rental housing and tenant purchase have promoted delivery of social housing, their impact against existing demand has been minimal, and more so, they have mainly been aimed at government employees and employees in formal employment, thereby denying low income earners in informal employment the right to adequate housing. Since these government social housing financing strategies are based on subsidies, they have over time declined with increasing demand for housing due to them being economically unsustainable for the government.

4.2 Public Rental Housing Financing
The principles behind rental housing finance and provision by the government were that housing was a social good and that housing for rent, not ownership, was a basic necessity for anyone whose residency in an urban area was incidental to them having employment and working within such an urban area. Under this financing model for housing, the then local authorities and state agencies in Kenya were allocated loans by a central government agency, the Central Housing Board, with long repayment periods of 40 years at very low interest rates. The local authorities used this financing to develop and own various public servants housing estates on government land, and employees in the public service were allocated housing at relatively minimal rental rates compared to privately developed housing in urban areas.

While this social housing finance model promoted access to housing for public servants, including low-income earners under government employment, it stalled due to change in government policy in the 1970s that stopped construction of civil servant housing. The rental rates charged by local authorities to tenants have not been adjusted to reflect economic changes in the country, including inflation and land values. Inadequate and manual management of the various local authority housing estates, as well as regime changes in local authority governance have contributed to lack of updated and accurate housing allocation records and tenant inventories, reducing rent collections. Thus civil servant housing has not generated enough revenue to sustain redevelopment. As a social housing financing model by government, this strategy enabled access to rental housing, which is an affordable alternative to house ownership. Its key limitation was that it was focused on civil servants and wasn’t financially sustainable.

4.3 Tenant Purchase
The tenant purchase housing finance strategy is a social housing financing strategy that allows for ownership of housing through long term rent payments, and it is only after redeeming the set sale price of the housing unit
through rent payment, can the government transfer house ownership to the tenant. This housing finance model has been thought of as an improvement of the public rental housing finance strategy, and is being run under the government, through the National Housing Corporation. It has also been proposed for social and low cost housing under the Big 4 Housing Programme.

Under this housing financing model, tenants are expected to redeem the sale price of a housing unit over a medium term period of between 15 to 25 years, through regular payment of rent, and at subsidised interest rates. This housing finance strategy does not assume a transitory urban population. It is aimed at promoting housing ownership as opposed to rental. The tenant only assumes ownership after full repayment of the sale price of the unit and transfer of the land and house by government.

The high and unregulated price of land in Kenya, especially in the major cities of Nairobi, Mombasa and Kisumu, is usually identified as the main factor in the high cost of rental and for purchase housing in urban areas. In determining the cost of a housing unit under tenant purchase, the price of land is hardly fully included. Together with long repayment periods and low interest rates, the tenant purchase is one of the most highly subsidised housing finance models in Kenya. Being heavily subsidised limits the scaling up of this financing model. The long repayment periods imply that government would take longer to raise adequate financing for additional housing units. Additionally, while meant for low-income earners, a majority of the resultant housing units in tenant purchase schemes have been purchased by high-income individuals for speculation, who in turn have adjusted prices upwards. The real key limitations of this financing model are that it is intended for formal employees in the public service, it is impractical for those in informal sector.

4.4 Loan Financing From Banks

Banks are the most developed financial institutions in Kenya with a net asset base of approximately Kshs 3.98 trillion by December 2017. With such an asset base, it is a natural option for housing finance in Kenya to address the lacuna created by inadequate financing and delivery of housing by government, and as such have played and continue to play a significant role in end user housing financing by offering various credit options, including, construction, land purchase and housing purchase loans, as well as mortgages. Despite their growing asset base and their potential as sources of credit it has been noted that housing finance from banks has focused more on lending to corporates in the real estate sector which does not translate to affordable housing for middle and low income earners, with a notable decline in lending to households. This decline has created a vacuum that is being partially covered by alternatives sources including SACCOs, microfinance institutions and mobile financial services, as well as informal financing alternatives, catering for 82.9% of credit to households.

According to the 2015 Home Ownership survey by the Kenya Bankers Association, bank financing through home construction or home purchase loans, while a relatively highly used source of end user financing for house ownership, is not the most preferred financing model for housing ownership compared to personal savings as indicated by the figure below.
There are notable characteristics of housing finance through bank loans that have restricted and denied low-income earners the right to access adequate housing. They include focus on formal sectors and its employees, high cost of bank loans and high cost of repayments, including interests. Ordinary bank loans also have very short payment periods that are not suitable for housing.

**Focus on formal sectors**: As a formal sector market based housing financing strategy, bank financing through home construction, purchase or improvement loans provides limited opportunity for access to financing by low-income earners, and especially those not formally employed. Banks require proof of ability to pay usually in the form of a payslip and availability of adequate income to ensure loan repayment, as well as require any existing land to be developed to have all the formal land ownership and approval documentation, factors which lock out majority of low income earners living in urban areas, as most are informally employed with no regular payslip and inadequate incomes. The 2019 FinAccess survey observes that 23.8 per cent of participants in the survey were denied bank financing due to insufficient income and savings, while 25.7 per cent were denied due to lack of collateral, with 15 per cent being denied due to lack of any credit history, which is mainly due to inadequate income in low-income households.

**High cost of access to bank loans**: there is limited access to bank loans by low-income earners for end user housing finance also due to costs and charges including stamp duty charges, valuation fees, commitments fees and legal fees among others.

**High cost of repayment**: while bank-financing models have been applied in delivery of housing in Kenya, resultant housing has been mainly developed for high and upper-middle-income brackets and as such unaffordable for low-income earners both for rent and ownership. The high rental and sale prices of resultant housing from bank financing is partly precipitated by the high cost of repayment of bank loans, which are characterised by high interest rates. Despite the capping of interest rates by the Central Bank of Kenya in September 2016 to not more than 4 percentage points above the Central Bank Rate, which is currently at 9 per cent, housing finance through bank loans has still remained unattainable for low-income earners, especially those living in urban informal settlements, as the size of household incomes is usually insufficient and difficult to prove for majority of low income earners who are informally employed.
4.5 Mortgages

Kenya has a relatively well-developed mortgage housing finance market. This model has been used to finance housing development by the private sector, as well as house purchase and owner occupied house construction by end users. Banks offer mortgages to borrowers as loans over a specified period of time, at a specified interest rate, while the borrower provides the bank with collateral usually in form of property ownership documents, which are released by the bank upon repayment of the loan. The bank also assesses the borrower’s ability to pay the loan, based on the stated income in their payslip or annual accounts.

In December 2012, the value of outstanding mortgage loans was Kshs 120 billion, rising to Kshs 160 billion in 2014 and to Kshs 220 billion in 2017. Additionally, the number of mortgages increased from 22,013 in December 2014 to 24,059 in December 2016, then to 26,187 mortgages in December 2017, implying an increase in usage of mortgage financing for house ownership. Kenya’s mortgage as percentage of the GDP is a paltry 2.51% compared to South Africa’s 26.4%, Namibia’s 19.6% and Morocco’s 16.9%. This financing model has been underperforming in the Kenyan market, and inaccessible to both the low income and middle-income segments of the urban populations for the reasons discussed below.

**Financing model targeting the minority high-income population.** Kenya’s unemployment rate averaged 10.75% between 1991 and 2018, with more than 45% of the population living below the poverty line. A 2014 survey by the CAHF indicated that for the employed urban population, earns between Kshs 14,000 to Kshs 34,500 per month, while to afford the cheapest newly built house by a private developer, an average monthly income of Kshs 73,500 is required.

Additionally, the average mortgage loan size has been on a steady increase rising from approximately 6 million Kenyan shillings in 2016 to an average of 10.9 million Kenyan shillings in 2017. This has resulted to mortgage financing for house ownership being available only to high-income population bracket, composed of a paltry 76,804 as at 2017.

**High cost of repayment:** according to data from the Central Bank of Kenya, the rate of defaults of repayment of mortgage loans by borrowers has steadily increased, leading to a tripling in value on non-performing loans (NPLs) in the real estate sector from approximately 13 billion Kenyan shillings in 2014 to approximately 44 billion Kenyan shillings currently. This growth in non-performing loans is mainly caused by high mortgage interest rates, and the pegging of borrower’s ability to pay on income, which may be affected due to changes in employment or economy.

**Real estate Npl (Sh bn)**

![Figure 8: Growth in non-performing loans in the real estate sector](image-url)
This has in part resulted in a decrease in number of banking institutions offering mortgages for house ownership from 35 in 2016 to 31 in 2017. Increasing value of NPLs has also led to loss of housing and other property by borrower’s who defaulted through efforts by the bank to recover money loaned through the mortgages. For instance, Housing Finance Corporation put on auction residential and commercial properties of some of its borrowers approximated at Kshs 2 billion as a strategy towards cutting down on the value of NPLs. Among the main mortgage giving banking institutions, Housing Finance had the highest value as at December 2017.

**Figure 9: Value of outstanding and non-performing mortgage loans for key lenders in Kenya**

The average interest charged on mortgage loans by banks and other financial institutions was 18.7% in 2016. In 2017, and as a result of legislation passed by parliament to cap interest rates to loans by commercial banks, mortgage loan interest rates ranged between 10.8% and 14%. This is still very high for long-term finance and its bound to go higher based on the President’s recommendation to Parliament to remove the interest rate cap from the finance bill 2019.

High cost of access to mortgage financing: majority of banking institutions providing mortgages finance housing up to between 70% and 90% which implies that the borrower needs to have the difference as a precondition to accessing the mortgage financing. This initial deposit, together with associated mortgage financing costs including, arrangement fee, valuation fee, legal fee, insurance and stamp duty on charge and transfer, make access to mortgages for low-income earners, as well as middle-income earners unaffordable, and therefore inaccessible.

Not tailored for informally employed individuals: majority of individuals and families living in urban informal settlements in Kenya rely on informal sources of income, which are highly unpredictable. Mortgage financing for housing in Kenya is long term and repayment is calculated in equal monthly payments, which does not match with the irregularity of incomes of persons working in the informal sector. Additionally, mortgage lending institutions require provision of bank statements and payslips among other documentation to determine borrower’s ability to repay the loan, and by effect lock out majority of people living in urban areas who are not formally employed and lack payslips, and in some instances bank accounts.

### 4.6 Housing Finance by SACCOs

SACCOs have recently become one of the most preferred alternatives to borrowing from banks and other housing finance institutions in Kenya owing to their ability to reach low income earners and people working in the informal sector, as well as their ability to mobilise large amounts of funds from thousands of deposit making members. In 2016, the most common source of loans for land or housing was SACCOs at 45.9%, followed by banks at 34.2%. With combined assets of approximately Kshs 390 billion as at December 2016, the World Bank estimated that up to 90% of housing finance loans were offered by SACCOs.
SACCOs allow members, most of whom are middle and low income earners, to make deposits to the SACCOs based on their level of income over a long period of time, and it is against the deposits that SACCOs are able to provide housing finance loans as development loans to members. Some SACCOs buy large pieces of land using collective deposits from members then subdivide the land to members for housing development.

Examples of SACCOs efforts to get into housing include Africa Tenancy Purchase Initiative and KUSCCO. The former was formed in 2017 by 35 Kenyan SACCOs as a home ownership-financing scheme where members of those SACCOs would be provided with interest free mortgages, by paying a 10% deposit for a housing unit, then paying the balance of the sale price of the housing unit as monthly rent instalments over a maximum period of 20 years. KUSCCO is the umbrella body of all SACCOs in Kenya, and through it, members are able to access micro mortgages financed through the KUSCCO Housing Fund, mainly targeting low and middle income earners, and providing housing loans of between Kshs 500,000 and Kshs 7,777,800 with a 15 year repayment period, and at an estimated interest of 14%.

Despite the advantage of SACCOs being able to promote access to housing for low income earners by reaching both formally employed and informally employed persons in urban areas, as well as the ability of SACCOs to mobilise substantial funds through collective member deposits, some challenges limit access to housing through loan financing by SACCOs as highlighted below.

**Limited resource base of SACCOs:** SACCOs depend on member deposits as the main source of capital for financing housing loans to members, as such they are only limited to the size of their membership, which results to their inability to offer large loans for housing construction or purchase, as well as imposing a short loan repayment period of 5 years to borrowers, to enable sustainability of the SACCO. As highlighted below SACCOs are trying to create vehicles that can deliver housing specific products.

**Limited financing for housing by SACCOs:** majority of loans offered by SACCOs are based on member deposits, and the member may qualify for up to 3 times of existing deposits with the SACCO. However, member deposits are based on level of income, and as such, deposits made by low income earners even over long periods of time tend to be minimal, and do not to match the amount of financing required by a member for construction or purchase of a house.

### 4.7 Off Plan Purchase of Housing

Off plan purchase of housing is a situation where a buyer pays for the house before it is built. This mode of development and financing of housing is normally popular because the buyer is able to save money by buying at bargain prices. Further the buyer is able to organise his finances by spreading out payments, sometime over years, thereby eliminating the need for bank financing and associated costs. The developer likewise is able to make a big saving by avoiding or reducing bank loans. Interest saved over a two-year construction period can range between 4 to 8% of construction costs.

This mode of financing has been common in Kenya but a recent study by Sagaci Research and McKinsey points its drastically reducing popularity with only 25% of the residents saying they would consider it; 75% preferring ready to occupy homes. This is associated with a number of cases where developers received monies from would be homeowners and failed to deliver the houses. A case widely reported in media was the Suraya Developers, who pointed fingers at the interest rate caps and macro-economic performance, which eroded incomes of developers and buyers resulting in breaches from both parties. Firms like Cytonn opted out of the model, focusing instead in development of one project at a time.

Off plan sales in Kenya especially for flats and controlled development is enabled by Section 4 of The Sectional Properties Act, No. 21 of 1987 that provides for the subdivision of buildings into units which can then be registered by the Lands Registrar. It is on this basis that sections of buildings such as apartments, pent-houses and office suites can be registered separately and each unit issued with an individual Title. Section 5 of the Act provides for the
registration of sectional plans. This thereby enables developers to come up with a concept, generate a sectional plan from an existing plan of the site and sell the concept to potential investors in the form of off-plan sales.

The challenges faced by developers in using off-plan sales as a strategy of financing real estate development include: difficulty in achieving the target amount through off plan sales; penalties due to project delays; failure by off-plan property buyers to complete payment of the purchase price; and lower prices of the off-plan sales relative to sale prices of the units upon completion of the developments. Challenges faced by buyers of off-plan property include potential fraud by unscrupulous developers; probability of distressed sale due to inability to complete purchase price; poor quality of construction; and delays in project delivery.

4.8 Individual Income and Savings

In the 2015 Home Ownership Survey undertaken by the Kenya Bankers Association, 49% of participants indicated their preference of financing their home ownership through personal savings from their incomes. Monthly income is the principal way by which formally and informally employed persons in urban areas are able to access housing through payment of monthly rent. Personal savings accumulated from this monthly income and other sources forms the largest source of capital for financing housing construction or purchase for low income earners, including those living in urban informal settlements, as well as promotes incremental construction of housing based on available income and savings. Figure 10 below shows that most individuals construct their homes over a period rather than buy, hence the suitability of personal savings.

![Figure 10: Nature of home ownership by Regions.](source)

However, this financing model does not currently afford adequate financing and access to housing by low income earners and vulnerable persons living in urban informal settlements, firstly due to high rental and purchase prices of privately developed housing in Nairobi, Mombasa and Kisumu, and secondly due to low average monthly incomes exacerbated by growing urban population and prevailing unemployment in urban areas, limiting the amount of savings by both low income and middle income earners to finance housing. The 2019 FinAccess Household Survey identify a lack of regular income and inadequacy of money as the main reasons why majority of low income earners in urban areas in Kenya are not able to save for the future, including for financing house ownership.
Kenya Mortgage Refinance Company (KMRC) is a limited liability company under the Companies Act 2015, regulated by Central Bank of Kenya as a non-deposit taking financial institution. It is a public private partnership with the private sector owning 80% while the government owns 20%. KMRC falls under the supervision of the Capital Market Authority. The company has so far closed successful capital mobilization drive resulting in eight commercial banks, one microfinance institution and 11 SACCOs becoming shareholders of KMRC.

KMRC was established to expand the affordable housing sector in the Kenyan economy by providing lenders with access to long-term liquidity, which will in turn promote the availability and affordability of housing finance to Kenyans. The World Bank approved Ksh 25 billion while the African Bank approved Ksh 10 billion to support the Affordable Housing Programme. The funds will enhance access to affordable housing finance, strengthen KMRC balance sheets and provide requisite credit enhancement to support issuance of bonds. KMRC is established to provide liquidity and longer-term financing to Kenyan banks and other institutions with the aim of increasing the volume of residential mortgages. It will provide funding and capital market access to primary mortgage lenders at attractive rates, resulting in greater availability of fixed rate mortgages and longer-term loans. It will focus on:

a) Refinancing the mortgages created by participating mortgage lenders;
b) Developing the market by standardizing mortgage practices, promoting legislative reforms and improving process;
c) Developing the secondary mortgage market, and
d) Deepening the capital markets by raising funds through the issuance of quality long-term securities.

KMRC will offer the housing finance market in Kenya a credible and high-quality source of long-term funding at attractive rates while ensuring sound lending habits among primary mortgage lenders, such as banks and savings and credit cooperatives (SACCOs), resulting in greater availability of fixed rate mortgages and longer available loan terms. This will, in turn, help improve the affordability of mortgages, increase the number of qualifying borrowers, and result in the expansion of the primary mortgage market and home ownership in Kenya while deepening the capital markets.

Further, by acting as a central refinancing platform, KMRC will act as a force for the standardisation in the market. It will set the criteria for the type of loans it will refinance, industry standardised documentation, risk characteristics, etc. Standardising market practices allows for greater transparency and the creation of the market information systems, which in turn leads to better risk management and consumer regulations and overall lowering of the risks associated with mortgage lending. It is a major initiative in funding government’s Big 4 housing agenda. The operations of KMRC are illustrated in the figure below.
4.10 Summary of Reflections on Housing Finance in Kenya

To understand the appropriateness of housing finance there is need to understand the income structure of those in the formal and informal sector. The informal sector employs more than 80% of the labour force while the formal sector accounts for less than 20%. The formal sector employees are distributed as follows:

\[ \begin{array}{|c|c|} \hline \text{MONTHLY GROSS INCOME (KSHS)} & \text{NUMBERS OF EMPLOYEES} \\ \hline 100,000 and above & 76,804 \\ 50,000 - 99,999 & 601,507 \\ 30,000 - 49,999 & 749,344 \\ 20,000 - 29,999 & 964,943 \\ \hline \end{array} \]

In reference to the above, the report asks whose housing problem is housing finance in Kenya solving? Inadequate housing is experienced mainly by the employed low-income groups, the informally employed and the unemployed. Most financial instruments discussed above target the formal sector, which constitutes only 20% of the labour force and even a smaller percentage of the general population.

This raises another question whether a housing finance system based on mortgages can solve Kenya’s housing problem? Given the size of mortgages being offered in Kenya one concludes that this targets those earning over Kshs 100,000 which is made up of only some 76,804 Kenyans. KMRC has a major task to expand this realm and open it to the mortgage gap, i.e. those earning between Kshs 50,000 to 99,000, so that it can reach these 601,507 people. Otherwise it will only cushion the banks from the small number of individuals currently qualified for mortgages. Further, analysis shows that mortgages will not deal with the low-income households hence need to explore other financial solutions.

How are the low incomes financing their housing? The study has shown that this is mainly through savings. Most owner-occupied houses in the country (88.6%) were constructed by the owners themselves, over time. There is need

---

28 See FSD, business Daily, 30th April 2018
to explore creative ways of making this model work. One way of doing this is through savings linked credit; the other is to strengthen existing savings mechanisms, especially through SACCOs and housing cooperatives as discussed above. SACCOs are not designed to provide housing finance, hence need to explore housing cooperatives that are designed for this purpose. This also points to the need to consider incremental housing, especially in the slums.

We note that currently the government’s policy focuses only on home ownership, including rent to own. It is noted that this model is only possible for permanently employed individuals with predictable incomes. The structure of incomes of informal workers would lead to default in payments. Conversations with experts from other countries, South Africa and Germany, indicate that “social housing” in their countries is rental housing; this is the general understanding of social housing globally. Besides a huge number of Kenyans are renters. Interpretation of social housing as home ownership is quite unusual. Studies show that about 70 per cent of households in urban areas lived in rented dwellings compared to about 10 per cent of households in rural areas. A high proportion of households in Nairobi City (86.4%) and Mombasa (82.2%) lived in rented dwellings; while in Kisumu the percentage was relatively low at 42.2%. The point is that there is need to explore “pure” rental alongside “rent to own” models as this is needed and also reflects the reality on the ground.

Are the solutions being suggested realistic based on the current macro-economic realities, where even government is broke and private sector is stuck with housing stock? Most of the financing mechanisms being suggested by government are suitable for those in permanent and pensionable jobs, especially in the public sector. We note that there exist a civil servants housing scheme that gives mortgages to top civil servants at lower rates than the banks. This should be expanded to the lower cadre in civil service, who also have housing affordability challenges.

At 14% housing finance is still too expensive in Kenya compared to many African countries whose rates are single digit and also with developed countries; in fact mortgage rates are the same as those for short term credit. This is bound to go up if the interest rate cap is removed. The study shows a mismatch between financing products and modalities of housing acquisition that calls for realignment and development of new innovative products. The study also shows that people have innovative ways of financing their houses; the state should therefore facilitate so that these don’t end up being illegal construction as seen in high-rise tenements in areas like Pipeline, Kayole, Zimmerman, Umoja and Huruma in Nairobi.

There is need to explore innovative financing models. These include equity run by civil society or professionals, community savings and credit schemes towards housing which will allow small loans towards incremental housing, and guarantee schemes where an NGO gets a grant and deposits in a financial institution to form a rotating fund for lending to members of a cooperative. The concern with most of these innovations remain scalability.

29 Presentations by and discussions with Adi Kumar, Executive Director, Development Action Group (DAG) South Africa and Klaus Teschner, Misereor during the Public discussions on Right to housing in Mombasa Kenya, 7th and 8th October 2019.
5.0 “Citizens or Trash?” - Housing Evictions Boom in Kenya

5.1 Introduction

According to the United Nations High Commissioner for Human Rights (UNHCHR, 1993) forced eviction is: the involuntary removal of persons from their homes or land, directly or indirectly attributable to the State and the private sector. It entails the effective elimination of the possibility of an individual or group living in a particular house, residence or place, and the assisted (in the case of resettlement) or unassisted (without resettlement) movement of evicted persons or groups to other areas. Evictions seemed to have peaked in 2018, on the back of affordable housing programme. Threats of evictions also seemed to have peaked at the same time. Threats from county governments have cooled off mainly due to delay of start of affordable housing programmes, but other government agencies and private sector continue to evict with impunity.

In Nairobi, there is a moratorium of evictions due to the Big 4 agenda. This was the position of County officials and was also corroborated by residents of informal settlements and old council estates. Though not formally communicated this has been the position of the Governor; it is seen to be linked with political position for 2022 elections. Besides, County officials stated that they did not expect any new construction, apart from Pangani and Jeevangee before 2022, making the evictions less urgent. However, the threats of evictions remain.

Mombasa continues with the same pattern of evictions. There are numerous government agencies carrying out evictions and threatening evictions from the Kenya ports Authority, Kenya Highways Authority, Kenya Pipeline, Kenya Power and Lighting Company, National Housing Company, among others. The county is also carrying out evictions both of businesses and housing linked to urban renewal projects, maintenance of old council houses, the Big 4 housing agenda, among others. Mombasa has had a number of court cases, which have either been won by evictors and sometime evictees. There is very little evidence of resettlement of evictees. Community members highlighted some immediate violations as the evictions in Likoni and Changamwe as a result of the highway expansion. Longwe and Mazunguka by KPLC and Boma and Mwongeka area by County Government. The settlements facing immediate threats to evictions include Dongo Kundu Bypass affected areas, Mazunguka part 2, Tudor, Changamwe, Khadija, Mzizima and Tom Mboya. These violations are a result of road construction, Big 4 Housing Agenda and land grabbing.

In Kisumu the main evictors are Kenya Railways, Kenya Ports Authority and the Kenya National Highway Authority. These are mainly as a result of the redevelopment of the new port. There are some evictions by the County Government, mainly related to “cleaning up the city” ahead of the planned AfriCities conference in 2020. Of the evictors, the County is the only one making some efforts to resettle the evictees. Recent serious cases include Lwang’ni Beach as result of the Port, Arina Estate as result of road expansion, Dunga Beach as result of road expansion, Magadi area in Manyata as a result of road construction. Nubian settlement in Kibos, Anderson Estate, Kaloleni and Obunga all as a result of road construction. The violations are as a result of road expansion, expansion of Kisumu Port, proposed housing programme, government agencies reclaiming their land, e.g. Kenya railways, agricultural finance corporation, Kenya ports authority, etc. There is also the planned AfriCities conference and continued beautification of the city through the Kenya Urban support Programe.

5.2 Recent Spate of Evictions in Nairobi, Mombasa and Kisumu

5.2.1 Recent Evictions and Threats in Nairobi

Other informal settlements facing threats of demolition in Nairobi include: Accra, Ngara, Makongeni, Mbotela, Mutindwa, as a result of the planned low income housing in Big 4. There are also threats of evictions by the Kenya Power Company and Kenya Railways in estates like Kaloleni and Muthurwa.

Figure 13: Mukuru Sinai Slum, Nairobi.

Figure 1 above is of Mukuru Sinai Paradise Slum, Embakasi, and Nairobi. It was demolished by the Kenya Pipeline Company because it stood on its way leaves. The entire slum received notices of evictions on July 23rd 2019 for evictions. The threat was not executed though. The notices were sent after the Deputy County Commissioner inspected the way leave in Mukuru Kwa Njenga and Mukuru Kwa Reuben in Embakasi Sub-County, Nairobi.

Figure 14: Pangani Evictions, Nairobi
The Pangani evictions happened in July 2019 to pave way for construction of 14-storey buildings as part of the county’s affordable housing project. In May this year, the county gave the tenants up to July 31 to vacate the houses after some tenants received money (Ksh 600,000) to seek alternative houses with the promise that once the project was done they would receive first priority in buying the houses. Interviews with City County official indicated that the tenants had been issued with letters indicating compensation and the expected date of their departure. Some accepted the offer and indeed were given cheques while others ignored the letters.

On the night of July 15, bulldozers arrived ordering the residents to move out immediately. The eviction caught many unawares forcing some of the residents to spend their night in the cold after being forcefully evicted by the county government. According to the tenants, county officers arrived shortly before midnight with a bulldozer and ordered them to move out immediately. The tenants admitted to having been given a verbal notice whose deadline was July 3. They left with no choice but to start moving their household items as they looked for safe places to shelter through the night. Evictions were done at night without regard to national guidelines on evictions, especially with regard to the vulnerable, the old the sick, etc.

A month earlier, on 27th June 2019 over 500 land owners in Daylight near Saika Estate, Omega, Chemi Chemi and Mwenyenji, all located within Embakasi sub-county, contested a plan by Kenya Power Company seeking to demolish their houses on allegations that they are built on pipeline way leave. The demolitions were stopped through a court injunction. A similar suit was filed Environment Court involving 557 residents from the same estate.

Figure 15: Demolitions of Deep Sea in 2016

Deep Sea in Nairobi Westlands areas is a settlement that has faced many evictions and threats of evictions. In February 2019 the Deep Sea Community in Nairobi, was faced once again at imminent risk of forced evictions. This was to pave way for EU funded road construction project to be executed by the Kenya Urban Roads Authority. Government through the Deputy Commissioner threatened to forcibly evict the residents. Though these were yet to be carried out, the settlement was a scene of evictions on Friday, 18th July 2016, Deep Sea, where houses and businesses and social infrastructure and services, like toilets were all destroyed.

32 https://www.the-star.co.ke/counties/nairobi/2019-07-16-pangani-residents-evicted-from-nairobi-cheap-housing-site/ Evictions in Nairobi: why the city has a problem and what can be done to fix it Otiso 2014
33 See Amnesty international (2018); Haki Jamii
Figure 16: Maasai Village

In February 2019 30 houses and a school was demolished at dawn in Maasai Village in Embakasi. This settlement had been demolished before on allegations that the villagers settled on Kenya Airports Authority land. This happened despite the appeal case number No. 299 of 2014 where 275 residents had sued the airport authority after threats of evictions that had been issued in 2011. Though a ruling was entered against the community in 2014; the community appealed the ruling. But the airport went ahead to executive forceful evictions.

August 2018, had a number of threats to evictions in some of which were countered by civil society. Katiba Institute went to court to petition against impending evictions due to the proposed link road that was going to affect settlements in Kaloleni, Makongeni, Mbotela, Mutindwa, Dandora and Kenyatta University villages. It also affects Lang’ata and Wilson-South C. This petition was rejected. In the same month Muungano ya Wanavijiji made a public appeal to stop forced evictions as a result of notices for social housing programme in Makongeni, Kaloleni, Mbotela, Dandora, Deep Sea, Mukuru, Mathare and Kamae. These evictions have not been executed. Other settlements that were given notices were Accra, Ngara, Mutindwa and Jeevanjee. The threats remain even though they have not been executed.

On August 16th 2019 Orbit Chemical Limited, a private company, was blocked from evicting 10,000 families residing in Embakasi South’s Makuru slums. Interestingly, the Nairobi Governor, who also announced that the President is against forced evictions, brought the petition to court.
In July 2018, 30,000 families were displaced in Kibra. More than 10,000 houses were demolished to pave way for construction of a link road developed by the Kenya Urban Roads Authority (KURA). In the Kibra case numerous schools, churches and community centres were destroyed. Thousands of students were displaced as exemplified below:

a) Mashimoni Squatters School (576 students);
b) Makina Self Help School (150 students);
c) PEFA Church School (120 students);
d) Egesa Children Center (180 students);
e) Mashimoni Primary School (200 students);
f) New Adventure Pride Center (200 students) and
g) I Love Africa School (530 students).

A month earlier, in June 2018, 500 shops were demolished near Moi Girls School, in Kibra, Nairobi. This was as a result of a rape allegation in the school that was attributed to insecurity caused by the structures around the school. The evictees were given two weeks notice and were not provided by any compensation.
9th May 2018, City Carton was demolished (again) and its’ 400 families were forcefully evicted. Over 60 heavily armed police officers ambushed residents of the City Carton informal settlements near Wilson Airport on the morning of 09/05/18 and oversaw the demolition of the homes of over 250 families. Bulldozers on-site flattened all houses and left over a 1000 people homeless. On 11 April, the resident of City Carton informal settlement were served with a 14-day notice to vacate from their homes. The notice was in the name of the Nairobi City County – Director, Planning, Compliance and Enforcement. City Carton residents had not received any further information on the eviction or plans for resettlement. Evictions were done during the rainy season with floods. This eviction, the fourth for City Carton, impacted livelihoods and school going children among others. There was no consultation nor resettlement plans.

5.2.2 Recent Evictions and Threats in Mombasa

Mombasa County carried out extensive evictions from road reserves despite court order in June 2019. The county ignored court orders against those evictions, which had been issues to the traders in January 17, 2014 and was later extended on 16th April 2019. The County also revoked past temporary occupation licenses issued to businessmen on government land along Tangana Road. Evictions included the un-alienated county government land in the area near the Old Railway Station. Business stalls were demolished, supervised by the police, from the 16th to 18th April 2019, with neither notice nor compensation. On 20th April 2019, affected people addressed this issue to the Project Grievance Mechanism, but nothing was done. Further clearance of this part of the road was done in May 2019.

Figure 19: Clearing the Changamwe Traffic circle

Another recent eviction was by the Kenya National Highway Authority (KeNHA) carried out in May 2019 with the support of the County government to enable constructing a dual carriageway on the highways: from Kwale County to Mombasa, Mombasa to Mariakani and Mombasa to Malindi. In May 2019 several residents and traders of the Changamwe Traffic Circle, which lies on the reconstructed road route, complained that the resettlement scheme, as applied for them, was not in line with the lenders’ (the European Union) standards and Resettlement Action Plan for the project. Further, the residents complained that cash compensations proposed in 2018 were not based on the evaluations that had been conducted earlier in 2013. They were evicted while they were awaiting these matters to be resolved by KeNHA.

Kibarani informal settlement is located in Changamwe constituency, Mikindani Ward in Birikani sub location. The area covers approximately 23 hectares. The settlement was established in the early 1930s. In 1939 the people were
evicted by the colonial government to use the site as a shooting range. After independence people resettled there. But in 1974 they were evicted by the Kenyatta government. Under the Moi government the people were returned back to that place in 1982. Kenya Railway has purportedly leased this land to a private developer. KRC and the company through the Chief Birikani sub location had tried to evict the residents purportedly for trespassing on the land. The threats have been stopped temporarily following an injunction by a local Catholic priest, Father Gabriel Dolan.

Fr. Dolan sued KRC and a transport company on behalf of the squatters, saying the corporation denied the people the right to acquire the land to secure their economic and social rights. The injunction covers Bangladesh, Kwa Punda and Birikani squatter settlements. The residents, requested the KRC in 2009 to allocate them the land for purposes of building a secondary school. KRC rejected the request in a letter, on grounds that the land had been sold. It was later found that KRC leased the land to one Sibed Transport Company despite its contention in 2009 that the land had already been sold. Justice Anne Omollo, of the Environment and Land Court, issued conservatory orders retraining KRC from granting possession of the un-surveyed land to Sibed Transport Company. The judge also restrained the company from evicting the residents or interfering with use of the land as a playground and a collection point for water distributed to them. The evictions threat remains despite the court order.

2018 July also saw attempts by the National Housing Corporation to evict some 146 tenants for non-payment of rent in their Changamwe flats. NHC went to court in October 2019 claiming that the tenants owed Kshs 58,496,316, which the latter were unwilling to pay. The case between NHC and tenants had started a decade earlier in 2008. Tenants had contested rental increase from an initial amount of Kshs 800 in 1988 to Kshs 7,500 in 2018. The increase was effected despite the fact that the landlord had not done any maintenance of the buildings during that period. The tenants proposed that the flats be given to them through a mortgage arrangement as has been done in other NHC schemes. Some families faced rental claims of up to Kshs 1 million. NHC did not only proceed to evict the tenants but also went to court to block the tenants’ case.

In April 2018, tenants of the 100-unit Khadija Estate in Mombasa faced forced eviction from the County. The reason initially advanced was default by the tenants on rent payments. The residents argued that the houses are run down and have never been renovated since they occupied them. The County changed its position from evictions on

34 Standards October 8, 2018. See also Business daily may 24 2018.
account of rent default to evictions to enable the redevelopment of the housing units under “the Big 4 Agenda”. This was suspicious since the residents were aware that the project for redevelopment was yet to start. Further, it was noted that an injunction had been issued against the County government against such evictions as per the suite No. 86 of 2017 that needed to be heard and determined. Resident noted that the county had deployed police officers and dogs to prevent some residents from accessing their homes despite the court case.

Figure 21: Demolitions in Changamwe

Kenya Pipeline Corporation has also done evictions, e.g. in the case of Dunga Unuse and Mbuyuni in Changamwe Constituency, as a result of clearance of the pipeline reserves. The part of the settlement beyond the pipeline was also subject to private developer’s evictions in December 2018, when armed policemen raided the area bringing down a church and more than 50 houses. The evictions lasted three days and was executed after the OCPD received a court order on the same. The residents noted that they were given no notices. The residents were not represented in court, since they had not been served with court papers. The officers, armed with tear gas, sniffer dogs, firearms and "rungus" demolished the properties in the wee hours of the morning, forcing more than 400 people to sleep in the cold.

There are evictions threat in Mombasa on account of the Big 4 housing development. In the first phase at least 142 families in estates earmarked for the development of a Ksh200 billion housing projects in Mombasa will be evicted. They were served with notices in 2018 to move out ahead of the project. The tenants live in government houses in Mzizima, Changamwe and Likoni Customs estates. The County government says 57 families will be evicted from Mzizima, 25 from Likoni Customs and 60 from Changamwe.

There is also on-going threat of eviction in Kibarani, formerly the main dumpsite for Mombasa. The site had attracted many poor families who had settled there to earn a living collecting and recycling trash (plastic, cardboard, metal). They were about 20,000 people living in the area. Around 8 years ago the County landfill was formally relocated to Mwakirunge. Parts of Kibarani’s dump were cleaned up making the land usable again. With this newly available land businessmen saw an opportunity to invest putting up truck yards and container depots. It is unclear how they acquired the title to the public dumpsite. In a visit to the area, President instructed that the land be taken back by government. Despite this order, the poor families that moved to and built homes in Kibarani are now being threatened with eviction by these private developers. The threats started with eviction orders on 14th July 2010 and continue to date (2019) despite the dispute between the government and private developer. Interview with CO Environment Mombasa County indicated that the County still intends to use the site as a recreational area. He said that they have identified the squatters who will be compensated. But the numbers indicated, 1,000, are way too few
compared with those on the ground. Besides the engagement seems to be only verbal, raising doubts whether the government will deliver on its promises.

In 2016, in light of real fears of forced evictions and police brutality, civil society groups and community members led by Amnesty International petitioned the County Assembly of Mombasa against planned evictions in relation to the following projects: the Mombasa Gate City Master Plan that proposes to overhaul the design of the city; Mombasa Housing Renewal Project; Kenya Informal Settlement Improvement Project; Mombasa Vision 2035; Kenya’s Vision 2030 (e.g. the Dongo Kundu By Pass, the Mombasa Mariakani Dual Carriageway, Moi International Airport Expansion Project, Kenya Ports Decongestion Project, the Standard Gauge Railway and LAPSET project). The affected settlements included: Jomvu, Changamwe, Nyali, Kisauni, Mvita, Likoni, Matopeni, Dunga-Unuse, Jomvu, Kwa-Punda, Kibarani, Tudor-Moroto, Bangladesh, Mnazi Moja, Kisumu Ndogo, Dongo Kundu, Bombolulu Mbuyuni, Shauri Yako, Burakenge, Mishomoroni Moroto and Bombolulu Moroto.

The petitioners asked the County Government to legislate on evictions and resettlement procedures, which will govern the eviction regime and contribute significantly to the realization of the right to adequate housing for Mombasa residents. Second, they asked for temporary suspension on mass evictions until an Evictions and Resettlement Procures Act is in place. Third, they asked that the County uphold rights to adequate housing for all persons through creation of strategies to achieve low cost housing units, budgetary allocation for the same and involvement of public in the process. Lastly, the petitioners demanded that the County stops use excessive force during evictions.

On the night of 17th May 2015 forced evictions of more than 100 inhabitants of informal settlements along the A 109 highway in Jomvu took place. It started around 11 pm. Bulldozers accompanied by scores of armed police carried out the evictions. The bulldozers demolished shops and homes that bore yellow crosses. Scores of residents and business owners in Jomvu informal settlement had received 30-day eviction notices from the Kenya National Highways Authority (KeNHA) informing them that their homes and businesses occupied public land reserved for road construction. Their structures were also marked for demolition with yellow crosses. The residents had not been consulted about the proposed evictions. Beyond the notices, they had received no information on the eviction process, resettlement or compensation.

On 13 Aug 2015, KeNHA organised a public sensitisation meeting, during which it admitted they had carried out the demolitions and indicated that they would consider providing some form of remedy. During the meeting, KeNHA representatives informed people about the existence of the Environmental and Social Impact Assessment (ESIA) and the Resettlement Action Plan (RAP) for the project and also summarised the main aspects of them. This was the first time that a majority of the people had heard about these documents. KeNHA representatives did not provide any details about the amounts for compensation and how these would be determined. KeNHA asked forcefully evicted people to establish a committee to calculate their losses and present them to KeNHA for consideration. The meeting was not in line with the criteria for genuine consultation as envisaged by international human rights standards.

5.2.3 Kisumu Evictions and Threats

There have been evictions in Kisumu CBD by the County in September 2019. This is as a consequence of “clean up” of the CBD ahead of the November 2021 African Cities Summit. The clean up has displaced 1190 traders. The County has promised to put up 1300 five by six feet metal sheet stalls and some sanitation amenities to house the traders as a temporary measure. Further, the County government has promised to build a permanent market on a 23-acre land donated by Kenya Railways that will house 10,000 traders currently operating on the street pavements and makeshift structures.

The Agricultural Finance Corporation had on the 13th of September 2019 issued another set of the traders with a seven-day notice to vacate a one-acre piece located within the Juakali area, or face forceful eviction. Some 100

traders are facing eviction. Kisumu County government asked the Agricultural Finance Corporation (AFC) to delay the process. The County hopes to settle all the affected traders, including those affected by the expansion of Kisumu Port on the 23 acre piece of land referred to above.

Figure 22: Demolitions in Lwang’ni, Kisumu

A month earlier, in August 2019, demolitions were executed in Lwang’ni Beach, a popular eating-place on the lake. At least 36 traders were driven out of Lwang’ni Beach and 44 others ejected from a stretch bordering the Railway quarters near the Port. The traders had occupied and used this area for at least four decades. No compensation was provided despite the investments that the traders had made in buildings and equipment.

Figure 23: Demolitions of business premises along Kisumu Railways
Figure 24: Demolition of Winmart Market in Kisumu.

Winmart is a food and general market in Kisumu CBD, next to Maseno University City Campus. It housed eateries, barbershops and beauty salons, clothes stalls, electronics stalls, etc. It was brought down to pave way for the beautification of the town ahead of the Kisumu Port project opening. It occupied land belonging to Kenya Railways. Other areas where there have been recent evictions of traders in 2019, include: Telkom, Bandani and behind Swan Centre Kisumu.

Figure 25: Swan Centre Demolitions
Infrastructure development, especially roads, has been a major cause of evictions in Kisumu from 2014-2019. The following are some recent examples:

- Construction of Impala - Dunga Road that led to displacement of many informal settlements. The road construction is under the Kisumu Urban Project, funded by the French government. This affected a number of businesses in Kisumu. Evictions are done in the middle of the night, as was seen in December 16, 2017. There are no notices.
- In Nyalenda displacement of persons and businesses occurred partly because of the highway and partly as a result of evictions by Kenya Prisons Service.
- Northern Corridor Transport Improvement Project, part of a larger World Bank funded project, that links Kisumu, with Kericho and Mau Summit, by KeNHA, displaced a number of families in Nyahera area.
- Kisumu – Busia road construction resulted in evictions in many locations, including Oile Market where numerous businesses were destroyed. This was from 2014 and continued to 2018. This was done by the KeNHA and affected residents and traders in a very long stretch from Kisumu town, through Mowlem, and Otonglo Market to Kisian Junction. Industries, petrol station, shops, were brought down. KeNHA is adamant that individuals will not be compensated as they had encroached on road reserve.

5.3 Causes, Impacts and Alternatives to Evictions

According to the Committee on Economic, Social and Cultural Rights General Comment NO 7 (1997) on the right to adequate housing forced evictions is defined as “the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”. In the Kenyan context the Government (national and county) and private developers are responsible for most of the forced evictions. Most notable is the country’s landownership structure that precludes many poor people’s access to land and decent shelter. This factor underpins the following discussion of three primary causes of eviction in Kenya:

i) Conflicts over land rights;
ii) Non-payment of excessive land and house rents; and
iii) Urban development or redevelopment. 36

Development-based evictions are often planned or carried out purportedly to serve the “public good” or “public interest”, but do not provide protection for the most vulnerable, don’t follow the right procedures or due process. This is the case of many development and infrastructure projects37. These evictions in the name of development in general do not benefit those most in need. They do not apply a human rights framework by which security of tenure and active, free and meaningful participation of slum dwellers in development decisions is prioritized. Evictions are not an inevitable side effect of urbanization, development and reconstruction; they are often overt human interventions in violation of rights and the law.38

In the public sector the common immediate cause of eviction is often infrastructure development. Ironically, the proposed government-housing programme is also cause for immediate threats of evictions in all the three cities under investigation. Other immediate causes of evictions include private sector claims to land, government parastatals clearing of their way leaves, and recently cleaning up for major international events.

Structural causes of evictions in the three towns are embedded in political economy, including levels of poverty, unequal access to land, a skewed and complicated land administration system that does not work for the poor in informal settlements and rural areas, and inadequate and inappropriate instruments for securing tenure for the

36 Forced Evictions in Kenyan Cities: Otiso 2002
low-income people, amongst others. Of concern is governments repeated failure to follow its own evictions and resettlement guidelines.

Undue evictions are a gross violation of the right to adequate housing, and access to other fundamental human rights. In urban informal settlements a double standard has always characterised the upgrading programs and projects, where on one hand the government, government agencies or private individuals or institutions have proposed to provide housing for residents and on the other hand the same government and private entities have moved to forcefully evict existing occupants on land where the proposed housing is to be without due process, and provision of alternative housing. Forced evictions violate, directly and indirectly, the full spectrum of civil, cultural, economic, political and social rights enshrined in international instruments, including:\(^\text{39}\)

- The right to life\(^\text{40}\)
- Freedom from cruel, inhuman and degrading treatment\(^\text{41}\)
- The right to security of the person\(^\text{42}\)
- The right to an adequate standard of living, including the right to adequate housing, food, water and sanitation\(^\text{43}\)
- The right to non-interference with privacy, home and family\(^\text{44}\)
- Freedom of movement and to choose one's residence\(^\text{45}\)
- The right to health\(^\text{46}\)
- The right to education\(^\text{47}\)
- The right to work\(^\text{48}\)
- The right to an effective remedy\(^\text{49}\)
- The right to property\(^\text{50}\)
- The rights to vote and take part in the conduct of public affairs\(^\text{51}\).

These violations can be directly or indirectly attributed to:

- The way evictions are decided (for instance, no consultation or participation, no information, no recourse mechanisms);
- The way evictions are planned (for instance, no notification, no relocation available, compensation not provided, delayed or subject to unjustified conditions);
- The way evictions are carried out (for instance, at night or in bad weather, no protection for people or their belongings);
- The use of harassment, threats, violence or force (for instance, forcing people to sign agreements, using bulldozers when people);
- The results of the eviction (for instance, disruption of children’s education, interruption of medical treatment, mental trauma, loss of jobs and livelihoods, inability to vote because of homelessness, no access to basic services or justice because identity and property papers were destroyed during the evictions, etc.)\(^\text{52}\)

Alternatives to evictions exist but government and the private sector have failed to explore means of doing

---

\(^\text{40}\) United Nations International Covenant on Civil and Political Rights, art. 6.1
\(^\text{41}\) ibid article 7
\(^\text{42}\) ibid, article 9.1
\(^\text{43}\) International Covenant on Economic, Social and Cultural Rights, art. 11, and related Human Rights Council resolutions
\(^\text{44}\) United Nations International Covenant on Civil and Political Rights, Article 17
\(^\text{45}\) ibid., art. 12.1
\(^\text{46}\) International Covenant on Economic, Social and Cultural Rights, art. 12
\(^\text{47}\) ibid., art. 13
\(^\text{48}\) ibid., art. 6.1
\(^\text{49}\) International Covenant on Civil and Political Rights, arts. 2.3 and 26
\(^\text{50}\) Universal Declaration of Human Rights, art. 17
\(^\text{51}\) International Covenant on Civil and Political Rights, art. 25.
evictions in compliance with the national and international guidelines to uphold the Constitution and International Conventions. Some recent examples of how this can be done include the Kibera railway relocation, where the railway working together with local CSOs found innovative ways of accommodating the affected persons within the railway reserve. In Mombasa Kwa Bulo Settlement in Nyali Constituency comes to mind. The residents were issued with 1,000 Certificates of Occupancy, ending many years of tenure insecurity and fear of forced evictions. This was a culmination of application of the Social Tenure Domain Model (STDM), a pro-poor land information system developed by the Global Land Tool Network, and implemented through a collaboration of Pamoja Trust and the UN-Habitat. The residents have been able to upgrade their housing on account of securing their tenure and provision of basic infrastructure and services through the Kenya Informal Settlement Improvement Programme (KISIP).

5.4 The legal framework for evictions

Forced eviction is a violation of the constitutional provisions on right to housing and other socio-economic rights. The Government of Kenya established the Evictions and Resettlement Guidelines in 2009. These guidelines were aligned with international norms on evictions and resettlement. In 2012 the government established the Evictions and Resettlement Procedures Bill 2012. This was not passed in parliament as anticipated. Hakijamii and other CSOs were part of this process. Indeed Hakijamii proceeded to develop an abridged version of this Bill. This Bill was aimed at ensuring that evictions by both the public and private sector are conducted within the confines of the law. Some of the key provisions relating to evictions in the Lands Act as revised in 2016 include:

a) Those who perform the eviction must identify themselves and they must present the formal authorization for their acts;
b) If a group and not just one business or person is affected, a representative of the government office must be present during the evictions;
c) The dignity, the right to life and the security of those affected must be respected;
d) All persons who are vulnerable must be specially protected, like women, elderly, children, and persons with disabilities; and
e) The eviction should include mechanisms to protect property and possessions left behind involuntarily from destruction; and it should give the affected persons the first priority to demolish and salvage their property.

Internationally, there are standards and guidelines of evictions that Kenya is meant to comply with, either as a signatory to the international instruments or a condition for funding agencies, e.g.:

a) The European Investment Bank Environmental and Social Handbook;
b) KfW Development Bank Sustainability Guideline;
c) UN Basic Principles and Guidelines on Development-based Displacements and Evictions; and

The common principles in these evictions guidelines, include:

a) Appropriate notice to all potentially affected persons that eviction is being considered;
b) Public hearings on the proposed plans and alternatives;
c) Effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups;

53 Interview with Dr. Steve Ouma, Pamoja Trust
54 Interview with Director of Housing; interview with Dr. Steve Ouma; interview with Kwa Bulo residents.
55 Republic of Kenya, National Land Act 2012: paras (a) and (b) of Sec. 152 G Land Act
56 ibid: para (c) of Sec. 152 G Land Act
57 ibid: para (d) of Land Act Sec. 152 G
58 ibid: para (e) of Land Act Sec. 152 G
59 ibid: para g and l of Land Act Sec. 152 G
d) A reasonable time period for public review of, comment on, and/or objection to the proposed plan;  
e) Opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and  
f) Holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

5.5 Community Organising

So far community organising has been the main deterrent of communities faced with evictions. In many instances the catalysis for community organisation are individual human rights defenders in informal settlements. Whenever communities receive threats of evictions these mobilisers get community members together to strategise on what to do. The mobilisers rely on the goodwill of the community and the support of a loose coalition of human rights defenders to support them with ideas and strategies. Sometime they succeed, sometimes not. Many report harassment and fear for their lives. In some instances these human rights defenders have been leaders from local churches, mosques, CBOs and NGOs. Using own resources and well-wishers they have mobilised communities and even gone to court to block forceful evictions. In some instances these community organisers have been supported by a loose coalition of NGOs and CBOs, working on human rights issues, among others, e.g. Haki Africa, Ujamaa Centre and Haki Yetu, Kibarani lobby, Kopa Kopa in Mombasa; Kituo cha Sheria, Amnesty International, KSM, Groot, K.C.S., Pamoja, CSUDP, Haki Jamii, Mazingira Institute, Muungano ya Wanavijiji and Katiba Institute in Nairobi and in KISORA, KISDEP, Mazunguka, Gender Dialogues, Kisumu.

Discussions with many of these organisations and individuals indicate that community organising is key, not only to resist evictions, but also to enable communities demand their socio-economic rights. It goes further to indicate that an organised community can provide for themselves means of accessing housing. The token example given is the Huruma community in Nairobi that was organised by Muungano ya Wanavijiji to provide housing.

Conversation with government officials confirm that community organising is indeed the starting point of community solutions to land and housing challenges. KISIP for example starts by creating community structures in the settlements they work in through the Settlement Executive Communities (SECs), through which the voices of the community are heard in the slum upgrading programmes.

The potential for this space was also confirmed through an interview with NACHU that indicated that organised communities can and have been a good basis for mobilising savings amongst poor communities for home ownership through the housing cooperative model.

There have been other models of community organising through enumeration that is practiced by most of the CBOs that are mentioned in this report. CSUDP is promoting Local Urban Forums as spaces for engagement and participation in urban governance.

The challenge thus far is that these groups have mainly been reacting to threats of evictions or actual evictions. Their capacity to organise community has been limited. But so far this is the bulwark that has been keeping forced evictions at bay, despite the challenges. The organisers have both financial challenges, institutional support and lack of knowledge on community organising and mobilising, including advocacy.

5.6 Summary of Insights on Evictions

The study notes that there was a peak on forced evictions in Kenya in 2018-2019. This seems to have been triggered by the government’s Big 4 housing programme. The private sector and national government agencies also joined the fray. The demolitions are being done by national government agencies, county government and private sector.
There has been an increase in evictions of businesses in Kisumu and Mombasa. Demolitions of houses of businesses have been done without compensations. Livelihoods have been destroyed.

Violations during evictions of informal settlement residents and businesses relate to process, relocation, compensation, the needs of the vulnerable, time for evictions, etc. The government does not follow its own guidelines and the law. Due processes are only followed in few strict internationally funded programmes, especially by the World Bank and EU. Most follow the process after the fact.

In Kisumu and Mombasa, there is empathy from leaders who are responsible for the violations and this is not based in law.
6.0 “Where Do We Start?” - Solving the Housing Challenges in Kenya

There seem to be reduced momentum in implementation of the Government Housing programme under Big Four. It is commendable that Counties have developed many relevant policy instruments. It is also commendable the fiscal instruments that the national government has put in place. However, the model that has been proposed by the national government for delivery of affordable housing is unlikely to deliver based on a number of factors, including: forced contributions to a housing fund; one size fit all approach to housing; lack of recognition of the income structure of majority of Kenyans engaged in the informal sector with no regular incomes, PPP arrangements, and the micro-economic conditions amongst others. Therefore there is need to explore other potential starting point for solving the housing conundrum.

Pragmatic approaches by counties: The Counties need to consider pragmatic ways of engaging the private sector, national government agencies, development partners and local investors to jump start housing for their people. They need to consider practical incentives they can give, e.g. planned land, type plans, ease of approval, collaborating with CSOs, etc. to deliver housing. The approach that only considers mega projects and proposal to amend or put in place tens of legislation will not deliver much in the short to medium term.

Security of tenure, infrastructure and services for informal settlements: Counties should invest in gradual improvement of informal settlements through allocation of resources for infrastructure and services and tenure security. These infrastructure and service investments, together with security of tenure will attract investors to these areas who will improve housing conditions. National government through KISIP 2 can also make a significant contribution. Communities need to organise to enable their voice and partnership to be tenable and effective.

The study recommends that the country, Kenya, needs to complete the creation of its national land registry. This will increase transparency and efficiency of the city’s land market, decrease corrupt land deals and reduce forced evictions by lowering the number of land disputes. Enforcement of spatial and land use plans will reduce encroachment on public land.

Beyond mortgage financing: The housing finance model that is being proposed by the Government, including establishment of the Kenya Mortgage Refinance Company (KMRC) is unlikely to unlock significant housing finance through mortgages. Mortgages are unlikely to increase significantly because of many factors including fixing the interest rates, increase numbers of defaults because of economic stress and a debt averse population. The mortgage gap, both for middle-income earners in government and private sector can be addressed through the KMRC. Construction loans cater for formally employed. This model can work for government employees. Government should consider expanding the benefits from civil servants housing scheme to the lower cadres. This will go along way in reducing demand for housing.

Without recognising these sources of finance that are aligned with the type of incomes of the low income housing finance models being developed will not work. The financing models do not work for informal settlement dwellers.

The compulsory contributory scheme to the Housing Fund has been challenged in court further delaying its operationalization. The alternative that should have been explored earlier of voluntary contributions is unlikely to pick up because of uncertainty of whether houses will be provided in the first instance partly because of trust deficit with the government that is generally perceived as corrupt.

Incremental construction through savings: It is time government considered how people are actually building and develop mechanisms to support the same. People are building incrementally, mainly through personal savings (54%) and savings mainly through SACCOs (11%). This is the same model being proposed by some developers in the Big 4. Social movements can explore savings as a means on mobilising community members for housing. There
are a number of lessons to be learnt from previous efforts, e.g. by Muungano ya Wanavijiji.

Resist forced and illegal evictions: On evictions there is need to follow due process. It is disturbing that national and county governments are the major culprits on violation of citizens’ rights through forced evictions. These governments are able to follow these guidelines when funding is coming from international agencies, while flouting its own regulations for self-funded infrastructure projects. Tokenism by County government cannot replace the rule of law. For social movements there are need to organise communities to protect their rights during evictions and post evictions. Unorganised community is very vulnerable.
References

1. Amnesty International (2013, October) "We are like rubbish in this country" forced evictions in Nairobi, Kenya. London: Amnesty International.
7. Daily Nation, August 19, 2019, “Banks to retain interest rates on current loans”.
31. Otiso (2014) “Evictions in Nairobi: why the city has a problem and what can be done to fix it”
34. United Nations: United Nations International Covenant on Civil and Political Rights, art. 6.1
36. United nations: Universal Declaration of Human Rights, art. 17
Appendix 1: Key Informants

- Adeline Masinde – We Effect
- Adi Kumar, Executive Director, Development Action Group (DAG) South Africa
- Alphonse Ojera – Birikani Community Leader, Mombasa
- Anthony Waria – Deep Sea Community Leader, Nairobi
- Beatrice Achieng’ – Kishdep, Kisumu
- Beatrice Karore – Nairobi People’s Settlement Network,
- Cassius Kusinya – National Director, Housing
- Charles Hinga – Permanent Secretary, Ministry of Infrastructure, Housing and Urban Development.
- Charles Konyango – National Director, Urban Development
- Charles Oyier (Dr.) – CEO, KOPA Kenya
- Charles Sikuku – Director, State Department of Housing and Urban Development
- David Luhambi - KENIN
- Elizabeth Mwailu – Community Organiser, Owino Uhuru, Mombasa
- Esther Mwikali – Community Leader Kayole, Nairobi
- Erickson Sunday – Kisumu Social Rights Association (KISORA)
- Ezekiel Rema – Chairman, Muungano ya Wanavijiji
- Ezekiel Ndukui – Assistant National Director, Housing
- Fatima Khamis – Kisumu Social Rights Association (KISORA)
- Gabriel Dolan (Father) – Catholic Priest and Human Rights Defender
- George wasonga – Civil Society Urban Development Programme (CSUDP)
- Gerald Wafula – Pamoja Trust
- Henry Ochieng – Kenya Alliance of Residents Associations.
- Humphrey Otieno – Community Organiser, KSM
- Jamuhuri Keta – Action Aid
- Japheth Ogola – Kutoka Network
- John Paul Obonyo – Haki Yetu, Mombasa
- Joyce Mwasaru – Haki Yetu, Mombasa
- Judith Oluoch – Civil Society Urban Development Programme (CSUDP)
- Julius Coredo – Programme Officer, Habitat for Humanity
- Klaus Teschner – Misereor
- Lawrence Apiyo – Grassroots Trust
- Lawrence Esho – Chairman, Kenya Institute of Planners.
- Marion Rono – former Director, Housing, Nairobi County
- Maurice Mae – Bakstan Estate, Mombasa, Community Leader
- Mercy Odondo – Gender Dialogues, Kisumu
- Mike Majale (Dr.) – Housing Consultant
- Mweupe Khalfan – Kenya Muslim Youth Alliance (KMYA), Mombasa
- Elisha Osanya – Chairman Kisumu Informal Settlements Network (KISNET)
- Paul Mbatha – Community Leader, Tudor, Mombasa
- Pauline Vata – Economic and Social rights Centre (ESRC-Haki Jamii)
• Pascaline Mulwa – Muming SACCO
• Ramahan Zombo – Kopa Kopa, Mombasa
• Sally Muiruri – Pamoja Trust
• Samuel Olando – Economic and Social rights Centre (ESRC-Haki Jamii)
• Samuel Olimba – Director Inspectorate, Kisumu County Government
• Sheikh Khalifa Mohammed – Sheikh Buxton, Mombasa
• Steve Gome – Ag. Chief Officer, Lands Housing and Urban Development, Kisumu County
• Steve Akoth (Dr.) – Senior Lecturer, Kenyatta University
• Suleiman Moshi Jaffer – former Director, Lands, Housing and Physical Planning, Mombasa County; Current Director, Tourism

(Footnotes)
1 Nairobi County Development Plan 2019/2020 Page 86