INTERNATIONAL JOURNAL OF CREATIVE RESEARCH AND STUDIES

www.ijcrs.org ISSN-0249-4655

CHALLENGES OF LOCAL GOVERNMENT PROPERTY TAXATION IN NAIROBI CITY COUNTY

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ABSTRACT

This study evaluates the challenges of property taxation in Nairobi city. Property taxation if well exploited can be a major source of revenue at the local government level. Nairobi has not been generating adequate revenue from property taxation, yet this revenue source if fully exploited can be used to fund infrastructure services in the City. The study used survey design where interviews were done on officials under Land Valuation directorates of Nairobi. Review of documents was also done. The study established that property taxation in Nairobi City faces many challenges that relate to policy and administration of property taxation. The legal framework for property taxation is inadequate and has not been review to keep up with the increase property development in the City; Nairobi uses two systems of taxation, site value and area rating that has resulted to a narrow tax base; there are no regular revaluations of the tax base. Property taxation also faces the challenge of lack of political will. These challenges have resulted to low revenue generation from property taxation in Nairobi.

Key words: *Property taxation, property tax base, property valuation, local government*

1. INTRODUCTION

Property taxation is a major source of local government finance in the world. Property taxation is a form of wealth tax where wealth consists of accumulated stock held at a certain place and time. It is a tax on land or real estate which is unmovable and comprises of land and the improvements thereon. Property taxes are levied by local governments on properties within their areas of jurisdiction. Bird (2010) defines a sub-national or local tax as a tax which the local government has the mandate to levy or not, determines the tax base and the tax rate, administers the tax in terms of assessment, collection and enforcement and retains all the revenue collected from the tax. Most property taxes in the world do not meet all these criteria but may meet only some (Bird, 2010).

Nairobi City is the capital of Kenya and the location of international companies, embassies and organisations. The city has experienced tremendous growth both in physical extent and in population. The population of the City was estimated at 3,138,369 under the 2009 population census (ROK, 2010). The population is projected to have increased to 4.386 million in 2018 and will rise to 7.031 million by 2030 (UN, 2018). As the City has continued to grow, so has been the increase in the pressure on the existing urban services. Urban service provision has not grown in tandem with the economic, physical, and social growth of Nairobi. The revenue generate by the local government has been inadequate to meet the growing demand for urban services. The financial capability of Nairobi is limited due to poor resource management and weak revenue collection system (UN Habitat, 2006).

Property taxation in Nairobi as in other cities in developing countries has been neglected (Morkan, 2010; Kelly, 1999). Political and vested interest is given as major reason for this neglect. Shoup (1978) notes that most of the prime commercial and residential urban properties are owned by important government officials and the families and influential families. They are therefore able to influence property taxation decisions in their favour and are unwilling to pay high taxes. The middle-class income housing is substantially low in these countries and does not form an adequate tax base.

Local property taxation is prone to political resistance through collusion between the tax payers and the collectors resulting to rent seeking outcomes (Ahmad et al, 2014). This mainly occurs in the management of the cadastre where properties are deliberately left out of the tax register resulting to administrative exemption from taxation in valuation of properties some may be undervalued due to political interference.

Though property taxes accounts for 30% of own source revenue in Nairobi, there is still potential of further exploiting this revenue source (Mutua and Wamalwa, 2017) The revenue can be used to enhance the provision of infrastructure services in the City.

Property taxation systems in the world differ depending on the tax base. The tax base can either be on the capital value of the property, including land and improvements; on the rental value of the property; it can be based on area or size of the property or on the site/land value. In Nairobi, property taxation is on two systems, site value and area rates.

2. LITERATURE REVIEW

Tresch (2015) and Lawton and Reed (2013) give the objectives of taxation as revenue collection, stabilization or economic efficiency and the redistribution or social justice role. Under the revenue generation objective which is the main objective of property taxation, the local government collects revenue to fund its expenditure. According to Hyman (2011) taxes reallocate resources from the private sector to the government. They reduce an individual’s income for spending on goods and services. Through taxation, allocation of resources is done from the private sector to the public sector to facilitate the government in provision of public goods and services.

The government also uses taxation to stabilize the economy. In order to control inflation caused by high prices of goods, the government may reduce the rate of indirect taxes, which in turn will reduce the prices resulting to decrease in inflation. Inflation leads to increase in demand for goods and services. Increase in the rate of taxation results in reduction in consumption, leading to reduced demand and inflation. The argument in favour of property taxes is that they have minimal distortion of the economy compared to taxes on income and profits (Lawton and Reed, 2013). Economists argue that taxes on property can promote growth if they are accompanied by a reduction in taxes on income and profits.

Under-taxation of property results to increased investment in the property sector and increased demand, leading to increase in property prices which benefit the current property owners but locks out prospective property owners (Lawton and Reed, 2013). Under taxation also encourages speculative buying and hoarding of land and promotes investment in the property market at the expense of the other sectors of the economy such as industry and business.

Through the redistribution role, the government uses taxes to reduce the purchasing power of individuals and corporations. Taxes are used to achieve fair distribution of resources in a society and to reduce income inequality. When carrying out the distribution function, the government promotes equity or fair distribution of income and wealth (Hardwick et al, 1999). This can be achieved by imposing higher rates of taxation on higher incomes. This can also be achieved by ensuring a fair distribution of the tax burden in the community. This is mainly done by using progressive taxation on direct taxes such as income and property taxes. In case of progressive property taxation, the value of the property is an indication of wealth of the owner and acts as a proxy for income. Therefore, high-end properties are taxed at higher rates than the lower end properties.

Property Taxes are also used to encourage some certain forms of land use. The government has used tax exemptions on export processing zones to encourage development of industries and overall industrial development. Property taxation can therefore be used to encourage some form of land use and to discourage others.

Principles of taxation

In his book, *Wealth of Nations,* 1776, Adam smith came up with the principles of taxation that have been widely used by economists when designing tax systems. The principles are used to evaluate the effectiveness of a tax system including property taxation. Brunori et al, 2006 and Ulbrich 2011 gives the principles of taxation as revenue adequacy, stability, efficiency, certainty, and equity.

i. Revenue adequacy principle

The tax should be able to generate enough revenue to meet the expenditures as per the budget. For property tax, the defined tax base will affect the amount of revenue generated. This is discussed below under site value taxation, annual rental value taxation, capital value taxation and area-based taxes. Site value tax has a limited revenue base because tax is only levied on the land element of the property. The annual rental value and capital value system both include land and the improvements as the tax base.

The administration of the property tax system including tax base, valuation, collection, and enforcement affects its adequacy. Poor administration of the property tax systems results in low revenue collection.

Unlike income tax that increases with increase in income, property tax is not buoyant. A revaluation of the property base is required before any increase in the values can be affected. Property revaluation is done under high professional fees and is also time consuming. This makes its administration difficult and costly.

Revenue generated from taxation should have stability. The revenue flow should not be subject to fluctuations in the economy such as inflation. Brunori et al, 2006 note that property tax provides a reliable and stable source of revenue to the local government. The tax base is immobile unlike income tax where taxpayers can move and even relocate countries to evade taxes. Due to the stability of property tax the revenue generated can easily be predicted and therefore, local governments can budget in advance on the potential revenue which makes it reliable. With frequent revaluations, the tax can be buoyant because property values increase with time. Therefore, when well administered, property taxation can be a stable source of local government revenue.

ii. Efficiency principle of taxation

This relates to collection cost by the government and compliance cost by the taxpayer. For land value tax, the collection cost can be low since the tax base is the unimproved value of the land and valuation will therefore not include improvements. However, there is need for frequent valuations that can increase collection costs especially for property taxation that includes improvements. It also involves handling of disputes and appeals and the assessed values. The property can act as collateral that can be sold by the taxing authority in case of failure to pay taxes.

iii. The certainty principle

This provides that the taxpayer should be certain of how much he is to pay and when and how to pay it. The tax should be certain and not arbitrary in terms of the amount to be paid and the rate to be charged. In property value taxation a taxpayer is usually certain of the tax to pay because assessment is usually done after duration of time e.g. every 3 or 5 years. The taxpayer should have certainty of the amount they are to pay, when and how. Land value tax is usually an annual tax where the taxpayer knows the assessed value and the rate at which to pay tax. This makes tax compliance easy.

iv. The equity principle

Equity is the quality of being fair and impartial and is concerned with justice in the society (The Oxford dictionary, Hardwick et al, 1999). All societies in the world have some norms or rules of sharing goods and burdens among the members of the society (Young, 1995; Hardwick et al, 1999 and World Bank 2005). Young, 1995 notes that equity is about the rules of distribution and the principles used to justify the rules. Equity in property taxation is concerned with the fair distribution of the tax burden among the taxpayers (Ulbrich, 2011). Most societies the world over have rules on distribution of resources and taxation. The rules mainly form part of the legal or administrative systems. Chapter 12 of the Constitution of Kenya, 2010 requires that the administration of public finance in the Country ensures equity or fairness in the distribution of the tax burden. Therefore, equity is an important aspect of public finance both at the National and Local government levels.

Equity in property taxation is evaluated under two principles; the principle of ability to pay and the benefit received (Ulbrich, 2011). The measure of ability to pay under property taxation is the market value of the property. The benefits of services in an area are capitalized in the property values. The benefit-received principle links the benefits provided by the local government to the taxes paid (Ulbrich, 2011, Hyman, 2011). Hence, property taxes act as a user fee through which the property owner who enjoys the services makes payment for the provision of local government services. The areas that receive more benefits should therefore pay more tax. This is used to justify higher property taxation of the high-income neighbourhood than the poor income neighbourhoods.

Land/Site value taxation system

Land which is a gift of nature is a factor of production together with labour, capital and entrepreneurship. However, land is the only factor of production with a limited supply which creates its demand (McCluskey and Franzen, 2005). According to McCluskey and Franzen (2001) land is a free good as opposed to labour and capital. The market price of land is therefore a factor of the labour and capital invested in it. The amount remaining for distribution is therefore an excess.

Land value taxation is one of the oldest forms of taxation with ancient roots since the introduction of agriculture and was initially based on the crop yield. The physiocrats who believed that the wealth of nations was derived from the value of agricultural land, called for the abolition of all taxes and the retention of only a single tax on land (McClusksey et al, 2005).

The theory of land value taxation emanates from economists such as, Adam Smith, 1723-1780; Davis Ricardo, 1772-1823; John Stuart Mills, 1806-1873 and Henry George, 1879. In 1776, Adam Smith published the Wealth of Nation. He analysed the effect of land value tax and noted that it would not reduce production, and therefore would not affect economic activities on the land. He advocated for taxing land value in order to finance government expenditure.

Ricardo 1772-1823 developed the theory of land rent at a time when most of the land in Britain was owned by large land owners and the farmers were tenants. According to him, rent for land should be the residual after paying for labour and capital which are variable factors of production. Land value is the earnings accruing to land in the production process. It is based on the next best alternative that land could be based on, which is the opportunity cost. Due to its fixed nature, a tax of unimproved land will not affect its supply and the economic activities that are carried out on it. The tax is borne by the landlord and is not passed on to the tenants.

In his book, On the Principles of Political Economy and Taxation (1821, pg. 127) Ricardo says, "*A land-tax, levied in proportion to the rent of land, and varying with every variation of rent, is in effect a tax on rent; and as such a tax will not apply to that land which yields no rent, nor to the produce of that capital which is employed on the land with a view to profit merely, and which never pays rent, it will not in any way affect the price of raw produce, but will fall wholly on the landlords. In no respect would such a tax differ from a tax on rent. But if a land-tax be imposed on all cultivated land, however moderate that tax may be, it will be a tax on produce, and will therefore raise the price of produce*."

Land value taxation is a compulsory payment to the taxing authority based on the market value of the bare land with no improvements (McClusksey et al, 2005). In Kenya the tax is called land rates and it is an annual payment to the local authorities within whose jurisdiction the land is located. The land rate is usually an annual payment based on certain percentage of the land value. The argument for taxing land is that land is a gift of nature and its supply is limited. Any earnings accruing to land are not because of any effort on the part of the landowner but as a result of the community effort.

George (1879 pg.421) states "*The tax upon land values is, therefore, the most just and equal of all taxes. It falls only upon those who receive from society a peculiar and valuable benefit, and upon them in proportion to the benefit they receive. It is the taking by the community, for the use of the community, of that value which is the creation of the community. It is the application of the common property to common uses*." He proposed a single tax on the unimproved value of land as a source of financing government expenditure. Econlib.org notes that in George's opinion, unimproved value was naturally inherent to the land and taxing it will therefore not discourage improvement and would not affect the land price. Econlib.org further notes that George was against exclusive ownership of land and instead of confiscating land, he advocated for confiscating of land rent from the landowner for the use by the state.

Mills, 1806 -1873 also advocated for taxing the unearned value in land that accrued to the landowners. In his book "Principles of Political Economy" 1848 (Econlib.org) he says, "Landlords grow rich in their sleep without working, risking or economizing. The increase in the value of land, arising as it does from the efforts of an entire community, should belong to the community and not to the individual who might hold title".

Winston Churchill also supported taxation of land value since its value increased as a result of government expenditure on infrastructure services. In his 1909 speech on land monopoly, he says, "*Roads are made, streets are made, services are improved, electric light turns night into day, water is brought from reservoirs a hundred miles off in the mountains -- and all the while the landlord sits still. Every one of those improvements is affected by the labour and cost of other people and the taxpayers. To not one of those improvements does the land monopolist contribute, and yet every one of them enhances the value of his land. He renders no service to the community, he contributes nothing to the general welfare, he contributes nothing to the process from which his own enrichment is derived.*"

Land value taxation was therefore advantageous in the 1800 since vacant land was in plenty and the government was encouraging land development by taxing the land element of property. Also, there was not high demand on the government to provide for its citizenly. However, with increased population growth in urban areas, the demand for urban services has increased. Taxing land value only narrows the tax base and therefore there is need to tax the land plus the improvements. This will widen the tax base, improve on property tax equity, and result to increased revenue generation.

Land value taxation has several disadvantages. The main disadvantage of land value taxation is that it does not tax improvements on the land. The essence of taxation is to tax wealth. Therefore, by taxing land only, wealth in terms of buildings and improvements on land is exempted. This can have distortionary effect on the economy with some wealth people being left out of the tax bracket. It is therefore argued that land value taxation is not equitable because in urban areas with massive land developments, the owners pay a small proportion of their property wealth as tax. The tax does not adhere to the ability to pay principle on taxation (McCluskey, 2007).

The other disadvantage is that land value tax may not generate adequate revenue especially for developed urban areas since the tax base is smaller as compared to tax on land and improvements. This makes it less flexible that the tax base that includes capital developments. In central business districts where most properties are developed, it means that such developments are exempt from taxation.

For developed land, it is difficult to separate land from the development. Once land is developed with improvements, estimates of the site or bare land value can only be hypothetical and it is subjective. This cannot be market value as market value can only be established under market conditions by the forces of demand and supply.

In urban areas, most land though vacant has some form of improvements such as fencing and improved drainage, accessibility through road network. Therefore, an unimproved site does not exist in practice. The value that is used to assess land value taxation is therefore a hypothetical value.

Rothbard, (1997) argues that holding idle land for speculation purposes is not a disadvantage. Not all land should be brought to production. The speculative owner holds idle land until such a time that it is beneficial for him to sell it and make profits, which is the essence of market economy. He also argues that capital investment is a factor of time in the production process. People abstain from consumption and engage in investment over time which results in capital development on land. Land value taxation discourages holding of vacant use of land where economic use of the land is not fully developed.

However, it is argued that the advantages in terms of the revenue collected can far outweigh the cost of administration. This is because land taxation is the basic and simplest form of taxation. However, as urban development is achieved it is important to incorporate development in the taxation. This will also lead to increased revenue generation.

Kenya is the only country in the world that currently uses pure site value taxation. According to McCluskey and Franzsen, (2001) unimproved site value rating was introduced in Kenya for the reasons to encourage land development and development for small rural towns; to discourage speculative holding of land especially by absentee property owners; it was easy to implement especially since there were few personnel especially Valuers; when the rating system was introduced, it was working in other countries such as South Africa, Australia, and New Zealand. Now most of these countries have changed to property value taxation.

McCluskey (2007) notes that there has been a change towards abandonment of pure land value taxation. This has happened in South Africa, New Zealand and Australia. South Africa recently adapted capital value taxation which was introduced in 2011. The main objectives of the shift from land value taxation is highlighted by Dye and England, (2010) as a political desire to tax wealth and improvements; to have more uniformity in policies and lack of credible sales data on vacant land in urban areas.

Area based system

The property tax under this system depends on the location. The tax base may be on area of vacant land irrespective of the developments or it can be based on per unit area of buildings (Norregaard, 2013). It is easy to administer but the tax base is limited, which affects revenue collection.

According to Konyimbih (2000) this taxation system is inexpensive to administer and easily understood by the taxpayers. It however does not adhere to the ability to pay principle since the tax paid for same size of land in each geographical area is the same, irrespective of its market value.

It is considered as an unfair tax because the tax is based on location not on market value of properties, which makes it regressive.

It is used in many developing countries and Eastern European countries where there is lack of land sales data due to undeveloped land markets. It is currently in use in Kenya and in Nairobi City it is used in the mainly agricultural suburbs areas of Embakasi.

In East Africa, Uganda uses Annual rental value as the basis of local government taxation. This incorporates the improvements on the land, which is in contrast with Kenya where the improvements are not considered. Tanzania also relies on capital value rating though area rating is also use.

The role of property taxation as a source of local government revenue

Bahl and Martinez-Vazquez (2007) and Cornia and Slade (2005) address the use of property taxation as a source of local government revenue by looking at the advantages and disadvantages of local property taxation. The advantages include:

i. Revenue potential and stability.

Property tax is a major source of local government revenue in developing countries. In Canada and U.S., it accounts for 3% and 4% of the GDP respectively. In most developing countries, the tax base is on capital value that includes land and buildings. This tax base is stable and is ever growing due to increased property values and development. Most developing countries have however not fully utilized the property tax as source of local government revenue.

Compared to other form of taxation such as income tax and sales tax, the property tax is relatively stable. The tax base, which is the property, is immobile unlike income that can move to other jurisdictions, even internationally.

ii. Promotes decentralisation

Cornia and Slade (2005) note that the property tax enhances the objective of decentralisation by promoting fiscal and political autonomy for decentralised local governments. Where local governments are financially autonomous from the central government, they are able to make independent decision thus promoting accountability in their administration.

iii. Immobile tax base.

Land which is the property tax base is immobile. This is unlike income tax and sales tax where increase in tax in one jurisdiction or country may result to taxpayers and business relocating to areas with lower tax rates. This is especially important in this age of globalisation. '--- *tax competition, aggressive tax planning, and the use of tax havens to shelter income have corroded tax bases and invited introduction of a plethora of often costly policy and administrative measures to safeguard national tax bases and powers'* Norregaard (2013: pg.

4). According to Grover et al (2016) the tax is highly visible and cannot be hidden and enables the local authority to tax it.

iv. Fairness and equity

Grover et al (2016) property taxation can be fair and equitable where the quality of property valuation is improved. Regular revaluation of the property tax base ensures that the property tax is related to the market value.

v. Property taxation does not result to tax exporting

The property tax is mainly borne by the residents who benefit from the public service provisions in the taxing jurisdiction. The taxing authority is not able to export the tax burden in the form of cost of service provision to other jurisdictions. This aspect is likely to promote good governance of the local government because the residents can demand better services for the property taxes they pay.

Bahl and Martinez-Vazquez, 2007 however note that this argument can be challenged especially where the land is owned by absentee property owners who are able to pass the tax burden to their tenants.

vi. Compliance cost

The compliance cost of property tax to the property owner who is the taxpayer is minimal. The assessment of the tax is often the responsibility of the taxing authority, which bears the bulk of the cost. This is unlike other self-assessed taxes such as the income tax and the value added taxes.

The disadvantages of property tax as a source of local government revenue include:

a) High administration cost

The property tax has high administration costs resulting in low assessment and collection ratios in the developing countries. This affects fairness in treatment of taxpayers. The costs are mainly associated with high cost of appeal processes; requirement for detailed information in the administration process and shortage of assessors in most developing countries. The high administration cost affects the administration efficiency resulting to low revenue yield.

b) Difficulty in enforcement

This is due to tax payers' attitude and the fact that the tax base is inelastic. The property tax is unpopular with voters making it prone to influence by politicians seeking political mileage. The main reasons for its unpopularity include the following:

- It is a tax on wealth, which does not always correspond with income received. This is unlike other forms of wealth taxes such as stocks and capital gain which are levied by the national government and only get taxed after the realization mainly through disposal. However, property is subject to taxation irrespective of whether it is yielding any income or not.
- The property tax is highly visible because it is paid as a lump sum usually once a year. This is unlike other taxes paid in small amounts over a period.
- The property assessment or valuation methods are subjective and not easily understood by the public. There are usually long appeal processes that are expensive and affect tax enforcement.
- The tax is a direct tax whereas the public benefits received from paying are usually indirect.
- It is not easy to evade the tax unlike other taxes such as the income tax.

The property tax is not income elastic as compared to income tax. For there to be increase in the tax, revaluations are required, which are often expensive.

"*When revaluation is too infrequent, say every 5 or 10 years, it leads to large one-time increases in tax liability and to voter uproar from the shock. As a result, countries use various means to cushion the shock, but these many times end up reducing the effective rate of property tax"* (Bahl and Martinez-Vazquez, 2007:7

3. RESEARCH DESIGN

The study used survey and case study research design. The research was carried out within the period of January to June, 2017. The study area was Nairobi City with the study population comprising of residential properties in the City. The case study areas were Buruburu and Kilimani areas which were under site value rating and Riruta area which was under area rating. Key informant interviews were done to officials in the Land valuation directorate, Nairobi County and the Ministry of Lands, Housing and Physical Planning. Secondary data was done through review of documents. The research aimed at establishing the challenges in administration of property taxation in Nairobi that impact on revenue adequacy of the City.

Thematic analysis was used to analyse data where the data was summarised under occurring themes or pattern (Braun and Clarke, 2006; Allojailan, 2012).

4. RESEARCH FINDINGS AND DISCUSSIONS

The study identified the following as the challenges in property taxation in Nairobi City. The challenges are discussed under the themes of property tax base, property valuation. These challenges have resulted in the City not fully utilising the revenue potential in property taxation

a) The property tax base

i. Use of dual system as property tax base

The property tax base according to the existing legislation is on the value of land, improvement value or a flat rate based on location or use. Nairobi relies on a dual system of unimproved site value and area rates. Site value only takes into account the value of unimproved land. Area rate is based on the size of land and does not consider development on the land and the value of the land. Nairobi being the capital City of Kenya has had increased property development with high rise building in the central business district and apartments in most residential neighbourhoods including Kilimani, Westlands and Eastland areas. By adopting site value and area rating systems, the developments are therefore omitted from property taxation resulting to loss of revenue potential.

The use of the two systems of taxation in the City has increased inequity in property taxation. Under the site value system, two adjacent properties of land having the same site value but where one has high density development and the other one vacant will pay the same amount of tax. The market value of the two properties will be different while the developed properties receive more benefits from urban services provided by the local governments. This results to inequity in property taxation and reduces the ability of the City to generate revenue.

ii. Many legal exemptions and administrative omissions from taxation

The Rating Act and Valuation for Rating Act provide for many exemptions of properties which reduce the tax base and increases inequities. The laws provide for blanket exemption of properties used as education institutions, public religious worship, hospitals, outdoor sports, national parks and reserves provided they are not used for profit or residential purposes. Properties under religious worship and education institutions are excluded from this provision. Nairobi has many high cost international schools including Brookhouse School, Hillcrest, International School of Kenya, Gems Cambridge and others which charge very high school fees. Exempting these properties from property taxation denies the City the potential to collect revenue from then.

Many properties are omitted from the tax register through administrative practices. The City does not tax land that has informal ownership documents. These practices narrow the tax base and hinder the ability of the City to raise revenue.

iii. Failure to adopt capital value bases of taxation

The legal provision on property taxation allows for the City to adopt land improvement as the basis of taxation. The City has however adopted this basis resulting to exemptions of development on land from taxation. Nairobi, being the capital City of Kenya has undergone major real estate developments. Taxation based on capital value would result to increase in property tax revenue.

b) Inadequate legal framework

Property taxation in Nairobi relies on old national legislations that have not kept pace with the changes in urbanisation and the devolution of power to the county governments. The Valuations for Rating Act and the Rating Act were both enacted in the 1960s after Kenya gained independence. They have only undergone minor adjustments over time. This is despite most of the Countries such as South Africa which had adopted land value as the basis of property taxation adopting capital value systems for their urban areas.

Kenya underwent devolution in 2010 and adopted a new constitution. The property taxation laws have not been amended to reflect this dispensation. The laws still require the local authorities to get approval from the minister for local government. These positions are non-existent in the current dispensation. County governments are empowered to levy property taxes under the constitution and do not therefore require approval from high levels of government.

On valuation of the tax base, the existing laws do not clearly specify that the local authorities can use mass valuation techniques. They provide that any techniques can be used which has led to local authorities adopting parcel-based valuation method of valuation. The time frame between revaluation is given as ten years and can be extended. Through this provision Nairobi city has been able to use property valuation registers that were prepared in 1982 and are over thirty-five years old. This result to use historical property values that have minimal relationship with the current market value, further affecting the revenue adequacy of the City.

As discussed in a (i) above, the laws provide for many exemptions to property taxation that has also affected the revenue potential of the City.

c) Inadequate land information systems

There is a challenge of land information system both at the national and the county levels. In Kenya land registration and survey is a function of the national government under the Ministry of Lands Housing and Physical Planning. The City relies on information from the MLHPP on property registration and survey maps. The MLHPP has not modernised its land information systems and largely rely on analogue systems. These are prone to errors and loss of data. This in turn affects the credibility of information that Nairobi City uses. The City has a draft GIS based valuation roll that was prepared in 2016 by a private consultant under funding from the World Bank. The draft valuation roll has 118, 000 properties. However out of this total the County has not been able to obtain and verify title search for 36,000 properties from MLHPP.

There is a challenge of un-surveyed land in the City that has affected property taxation. Most of the City's owned land which has been allocated to private individuals has not been surveyed and therefore does not have title deeds. There are other major properties in the City such as where Nyayo House is City Centre which are not surveyed and only have allotment letters from the defunct office of Commissioner of Lands under MLHPP. The land which is not surveyed is not included in the tax register. This reduced the potential of the County to earn revenue.

The County uses manual systems for land information. There is no GIS system to link the survey data to the land registration details. The data gathering is therefore cumbersome and prone to omission. Most countries in the world rely of GIS based valuation systems for property taxation because the land data is already in GIS form.

d) Valuation of the tax base

The county has been relying on parcel-based valuation method which is time consuming and expensive. There is need to adopt computer-based mass appraisal techniques to improve the accuracy of valuations and capture all the property within the City's jurisdiction.

The existing law provides that supplementary valuation rolls be prepared at least annually to capture any changes in properties resulting from subdivisions, change in ownership and change in property use. Nairobi City has however not been preparing annual supplementary valuation rolls. The last one was prepared 2011 about seven years ago.

There is inadequacy of sales data which are used as sales comparison basis in valuation of the tax base. The practise has been to rely on sales values declared under stamp duty sale in the MLHPP. There is a tendency to under declare these values to pay less stamp duty tax which affects the valuation for property taxation purpose.

e) Over reliance of revenue transfer for the national government

Nairobi City relies heavily on revenue transfer for the national government. There is no motivation to collect own source revenue. In the financial year 2016/2017, Nairobi raise about Kenya shillings 10.93 billion from own source revenue and received about Kenya shillings 14.596 billion as revenue transfer from the national government ROK, 2017). This comprised of about 57% of the total City budget.

f) Lack of political will and political interference

There is lack of political will to change the status quo in property taxation in Nairobi. This is highlighted in the use of outdated tax registers. At the national level, the government has introduced tax on rental income, yet Nairobi, being the capital city of Kenya has not had any significant change in the property tax system in over 35 years.

In 2017, which was an election year, the then Governor of Nairobi reviewed the rate struck on land rates from 34% on the site value to 25% of the site value. This was a reduction in property taxation at a time when the City should have been increasing the own source revenue. Such interference affects property taxation in the City.

Nairobi City prepared a draft Nairobi City County Valuation and Rating Bill in 2015 whose purpose was to provide for the imposition and collection of property tax in the County. The bill has not been approved by the County Assembly four years since its preparation. This implies that there is no political will to make the bill into law, which would enhance the property taxation process in the City.

5. CONCLUSION

The research set to establish the challenges faced with property taxation in Nairobi City. The study has established that property taxation faces many challenges which steam from issues with policy and practise of property tax administration. The legal framework namely the Valuation for Rating Act and Rating Act which are national laws are inadequate to ensure that the potential in property taxation is fully utilised to enhance revenue generation for the City. The administration of property taxation at Nairobi city is inadequate. This is in the areas of widening the tax base, regularly valuation of the tax base. The failure to use capital-based valuations has narrowed the tax base.

The study therefore recommends that the legal framework for property taxation in Nairobi which is based on the national laws in Kenya should be overhauled to ensure that property tax is a major source of revenue for the County. The administration of the property taxation process should also ensure that the tax base is widened, there are regular property revaluations and that all the properties are included in the tax register.

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