

THE KIAMBU COUNTY VALUATION AND RATING BILL, 2015

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THE KIAMBU COUNTY VALUATION AND RATING BILL, 2015

A Bill for

AN ACT of County Assembly of Kiambu to provide for valuation and rating of land and for connected purposes.

ENACTED by the County Assembly of Kiambu, as follows –

Clause

PART I – PRELIMINARY

Short title.

1. This Act may be cited as the Kiambu County Valuation and Rating Act, 2015.

Interpretation.

2. In this Act, unless the context otherwise requires-

“agricultural land” means all land which is used for the purposes of agriculture, not being land which, under any law relating to physical planning, is proposed for use for the purposes other than agriculture;

“agricultural rental value rate” means a rate levied on the annual value of the agricultural land;

“annual value”, in relation to an agricultural rental value rate, means–

(a) in the case of land which is held on

a lease from the Government for a term of 99 years and in respect of which an annual rent has been reserved by such lease, the annual rent so reserved; and

(b) in the case of any other land, the annual rent which might reasonably have been reserved if such land has been held on a lease from the Government for a term of 99 years commencing with the year 1960;

“assessment for improvement rate”, in relation to land, means the residual amount found by deducting the value of the unimproved land from the value of the land;

“improvements”, in relation to land, means all work done or material used on, in or under that land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase the value of the land, but does not include machinery, whether fixed to the soil or not;

“Chief Officer” means the chief officer for the time being responsible for lands;

“Department” means the county department responsible for lands as established by the County Executive Committee;

“Director” means the Director of valuation and rating appointed under section 5;

“Executive Member” means the County Executive Committee Member for the time being responsible for lands;

“land” includes any improvements thereon, therein or thereunder;

“Land Registrar” means the Lands Registrar appointed under the Lands Registration Act, 2012;

“rateable owner” means a person who –

- (a) is the owner of the registered freehold of, or the tenant for life of, that property, in possession or in reversion or in remainder expectant upon a lease or interest, other than a lease or interest referred to in paragraph (b) or paragraph (c); or
- (b) is the lessee of that property holding under a registered lease for a definite term of not less than twenty-five years or for the natural life of any person, or under a registered lease which is renewable from time to time at the will of the lessee, or under a registered lease which is for an indefinite term or is renewable indefinitely, or under a registered lease which is renewable at the will of the lessee for a term or terms which, together with the initial term of the lease, amounts or amount to not less than twenty-five years, or is a person having any interest, other than an interest as a statutory tenant arising under the Rent Restriction Act

(Cap. 296) in such property entitling him to possession thereof for a period not less than the period for which he would be entitled to possession if he were the lessee of the property; or

(c) is a lessee of public land, under a registered lease of such property holding under a lease for, or is a person having an interest in such property otherwise than as a lessee entitling him to possession of such property for, a definite term of less than twenty-five years; or

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(d) in the case of property situate in any district, area or place to which the Land Registration Act, 2012 has been applied, but being property in respect of which no certificate of ownership has, at such date as aforesaid, been registered under that Act has or claims to have any such leasehold or other interest in the property as is specified in paragraph (a), paragraph (b) or paragraph (c), or, where it cannot be established that any person has or claims to have such an interest, is in possession, or is in receipt of the rents or profits, of such property; or

(e) subject to paragraph (b), in the case of Trust land vested in the county government, which receives the rent therefor, or which would receive the rent if the land were leased; or

(f) is the lessee from the county government of the rateable property holding under a registered lease of not less than ten years, shall, for the

purposes of this Act, be the rateable owner of the property.

“rateable property” includes land, except-

- (a) any land used or reserved for roads, streets (including private streets), car parks, squares, parks, gardens or other open or enclosed spaces vested in the county government;
- (b) public land as defined in the Constitution and provided for under the Land Act;
- (c) Community land as defined and provided for in the Constitution and provided for under the Land Act; and
- (d) any land used for any of the purposes specified in section 21;

“rating area” means, in relation to any method of rating or rate adopted or levied under this Act, the area in respect of which such method of rating or rate may be adopted or levied;

“the valuer” means any person or authority prescribed by or under any law for carrying out valuation of land for the purpose of imposing rates on land so valued;

“time for valuation” means such date, within a period of twenty-four months preceding the commencement of the financial year in respect of which a valuation roll prepared under section 9 is to come into force; and

“value of land” and “value of unimproved land” shall be construed by reference to section 12.

Purpose of the Act.

3. The purpose of this Act is to provide for a legal framework for implementation of Article 209 (3) (a) of the Constitution and for valuing and rating land in order to –

(a) ensure efficiency, accountability and transparency in administration of valuation land for rating and rating;

(b) promote economic development;

(c) ensure equity and fairness in land valuation and rating system; and

(d) ensure compliance with payment of rates related to land.

PART II –ADMINISTRATION

Functions of the Department.

4. The Department shall be responsible for –

(a) conducting valuation and

rating of land;

- (b) preparing the valuation roll;
- (c) administering the valuation roll;
- (d) subject to the approval by the County Assembly, imposing rates on rateable properties;
- (e) determining the applicable methods of area rating;
- (f) preparing the schedule of rates; and
- (g) advising the Executive Member on the appropriate methods of rating applicable under this Act.

Director of Valuation and Rating.

5. (1) There shall be a Director of Valuation and Rating.

(2) The Director shall be appointed by the County Public Service Board in consultation with the Executive Member.

Powers of the Director.

6. (1) Subject to the direction of the Executive Member, the Director shall have powers to-

- (a) value land for the purposes of rating;

- (b) prepare the valuation roll;
- (c) alter or amend the valuation roll in accordance with this Act or any written law; and
- (d) carry out any function related to better carrying out of this Act.

(2) The Director may delegate his powers under this section to any valuer or person in writing.

Officers.

7. The County Public Service Board shall ensure that the Department is resourced with sufficient number of valuers and other necessary officers for effective carrying out of responsibilities under this Act.

PART III- VALUATION

Preparation of valuation roll.

8. The Department shall from time to time, but at least once in every ten years or such longer period as the County Executive Committee may approve, cause a valuation to be made of every rateable property within the county in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

Amendment of valuation roll.

9. (1) The Department may, either on its own initiative or at the request of any person amend the valuation roll in relation to –

- (a) any rateable property omitted from the valuation roll;
- (b) any new rateable property;
- (c) any rateable property which is subdivided or consolidated with other rateable property; or
- (d) any rateable property which, from any cause particular to such rateable property arising since the time of valuation, has materially increased or decreased in value.

(2) The Department shall cause a supplementary valuation roll to be prepared which shall consist of the amendments, alterations and additions to the valuation roll which are permitted under this section.

(3) The valuation roll shall be prepared at least once in each year following the year of valuation unless no alterations or additions to the valuation roll are required.

(4) Where part of any rateable property not separately valued in a valuation roll may be subject to a special rate under this Act, the Department may cause an apportionment of the value of that property as between the part which may be subject to a special rate and the remaining part to be made and inserted in a

supplementary valuation roll.

Power of entry and inspection.

10. (1) The Director or a valuer authorized in writing by the Director may, for the purposes of preparing a valuation roll-

(a) enter any premises, land or property for which a rate may be imposed; and

(b) inspect any premises, land or property or scrutinize any data, information, records, title deed or instrument in possession of any public officer or any person with interest in the land or property.

(2) A person who wilfully hinders or obstructs the Director or a valuer in the exercise of the powers conferred on him under this section commits an offence shall be liable to a fine not exceeding twenty thousand shillings.

(3) The Director or valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars in regard to that land as may be necessary to enable the valuer to prepare a draft valuation roll or draft supplementary valuation roll accurately.

(4) A rateable owner or occupier of land who-

(a) neglects to furnish the particulars required under subsection (3) within fourteen days after being called upon to

do so commits an offence and liable to a fine not exceeding twenty thousand shillings;

- (b) furnishes false statement of value or of any other particulars shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

(5) A conviction under subsection (4) shall not be construed as an exemption to provide the required particulars.

Contents of valuation rolls.

11. The valuation roll shall consist of –

- (a) the description, situation and area of the land valued;
- (b) the name and address of the rateable owner;
- (c) the value of the land;
- (d) the value of the unimproved land; and
- (e) the assessment for improvement rate.

Basis of valuation.

12. (1) For the purposes of preparing the valuation roll, the value of land shall be the sum which the freehold, free from encumbrances might be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose.

(2) In arriving at the value under subsection (1), the Department shall have regard to other land of similar class, character or position or to other comparative factors and to any restrictions imposed on the land or its use under any written law, which either increase or decrease the value of the land.

(3) In arriving at the value of land under this section, the valuer shall apply the suitable method of valuation as approved by the County Executive Committee.

(4) Where a valuation roll includes the value of the unimproved land, the value of any improvements and the value of the land, shall in no case exceed the amount found by deducting the value of the unimproved land from the value of the land.

Participation of rateable owners.

13. The Department shall, when preparing the valuation roll ensure that the rateable owners and any interested person are actively consulted and involved throughout the process.

Objections.

14. (1) The Director shall, after the completion of the valuation roll under section 15 (1) and before submission to the Executive Member, issue a public notice –

- (a) informing the rateable owners or any interested person where the valuation roll can be inspected;
- (b) inviting any person who has an objection with any issues stipulated under subsection (2) to lodge the objection

with the Department .

(2) A rateable owner or a person who is aggrieved by –

- (a) the inclusion in or omission of any rateable property from the valuation roll; or
- (b) any value ascribed in a valuation roll to any rateable property; or
- (c) any statement made or omitted to be made in respect to any rateable property;

may lodge an objection to the Department in the prescribed form within twenty one days after the notice issued under this section.

(3) Where there is an objection raised under this section, the chief officer shall convene an *ad hoc* committee to consider and advise on the objection.

(4) The *ad hoc* committee shall consist of-

- (a) the chief officer who shall be the chair person;
- (b) the Director who shall be the secretary;
- (c) the Director of Physical Planning;
- (d) a valuer who is in the private

practice; and

- (e) an Advocate of the High Court who is experienced in matters related to land.

(5) The *Ad hoc* committee shall consider the objection and advise the Department on the appropriate decision to make in regard to the objection.

Approval of valuation roll.

15. (1) When a valuation roll has been completed, the Director shall submit the roll to the Executive Member.

(2) The Executive Member shall submit the valuation roll to the County Executive Committee for consideration and adoption.

(3) The County Executive Committee shall within twenty one days of adoption of the valuation roll transmit it to the county assembly for consideration and approval.

(4) The County Assembly shall upon receiving the valuation roll under subsection (3) consider and may approve it where it is satisfied that the valuation roll is prepared in accordance with this Act or reject it.

(5) Where the County Assembly rejects the valuation roll submitted under subsection (3), it shall make its recommendations to the Executive Member who shall amend and incorporate the recommendations of the County Assembly and transmit the amended valuation roll to the County Assembly for approval.

Public notice and inspection. **16.** Upon approval of the valuation roll by County Assembly, the Director shall –

(a) publish a notice to the effect that the valuation roll has been approved and where it can be inspected; and

(b) send a notice of the valuation provide in the valuation roll to each rateable owner.

Coming into force. **17.** The valuation roll shall come into force upon the approval by the County Assembly and apply to the year in which it is prepared for the purposes of imposing land rates.

Alteration of valuation roll. **18.** Subject to the approval by the Executive Member, the Director may cause the valuation roll to be altered in order to –

(a) correct any clerical error not affecting any valuation;

(b) correct any error as to the name or address of the rateable owner;

(c) record any change in the name or address of the rateable owner;

(d) correct any error in the description including the situation, but not the area of any rateable property; and

(e) correct the description of the situation of any rateable property in consequence of the naming or renaming of a

street or from any similar cause.

Valuation of public land. **19.** Any public land which would, if it were not public land be rateable property shall for the purposes of assessing the contribution in lieu of rates be valued in the same manner as any rateable property in the same area.

Exemption from valuation. **20.** (1) No valuation for the purposes of any rate shall be made in respect of any land which is used, or, is *bona fide* intended to be used within a reasonable time, directly and exclusively for any of the following purposes-

- (a) public religious worship;
- (b) cemeteries, crematoria and burial or burning grounds;
- (c) hospitals or other institutions for the treatment of the sick;
- (d) educational institutions (including public schools within the meaning of the Basic Education Act, 2013) whether or not wholly supported by endowments or voluntary contributions, and including the residence of students provided directly by educational institutions or forming part of, or being ancillary to, educational institutions;
- (e) charitable institutions, museums and libraries;

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- (f) outdoor sports; and
- (g) National Parks and National Reserves within the meaning of the Wildlife (Conservation and Management) Act (Cap. 376):

Provided that nothing in this subsection shall apply to land used for profit or for residential purposes other than those specified in paragraphs (a) and (d) of this subsection.

(2) For the purposes of this section the Executive Member may make rules-

- (a) determining the principles upon which any land shall be deemed to be used for any of the purposes specified; and
- (b) prescribing the principles for determining the circumstances in which any land shall be deemed to be *bona fide* intended to be used for any of the purposes specified.

PART IV- RATING

Levying of rates.

21. (1) There shall be levied rates on any rateable property under this Act which shall be based on the Valuation Roll prepared under the law relating to valuation of property for the purpose of rating.

(2) A rateable owner shall be responsible for

paying the rates levied under this Act.

(3) The applicable rates in respect of the rateable properties shall be in accordance with the schedule of rates prepared under this Act.

(4) The Executive Member shall, within six months after the preparation of each Valuation Roll prepare the schedule of rates described under subsection (3) which shall be a Schedule under this Act.

(5) The Executive Member shall involve the rateable owners in preparation of the schedule of rates under subsection (4) and shall take into consideration the views of the rateable owners.

(6) The Executive Member shall submit the schedule of rates prepared under subsection (4) to the County Assembly for approval.

Forms of rating.

22. (1) For the purposes of levying rates under this Act, the Department may, subject to the approval by the County Assembly, adopt any of the following rates shall be applicable under this Act-

(a) an area rate in accordance with section 23;

(b) an agricultural rental value rate; or

(c) a site value rate or a site value rate in combination with an improvement rate in accordance with section 24 of this Act.

(2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area.

(3) The provisions on valuation under this Act shall apply in regard to any form of rating adopted under this Act.

Alternative methods of area rating.

23. (1) Subject to subsection (2) the Department may, with the approval of the county assembly, adopt one or more of the following methods of rating-

- (a) a flat rate upon the area of land;
- (b) a graduated rate upon the area of land;
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the area of land used for residential purposes; or
- (f) such other method of rating

upon the area of land or buildings or other immovable property as the County Executive Committee may resolve.

(2) A rate levied under this section shall be referred to as an area rate.

(3) The Department may adopt different methods of area rating for different parts of the county and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the manner following, that is to say-

- (a) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;
- (b) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c); or
- (c) method (f) shall not be combined with any other method of area rating.

Site value and improvement rates.

24. A site value rate may be levied in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an improvement rate):

Provided that-

- (i) any site value rate shall not, without the

approval of the county assembly, exceed four per centum of the unimproved value of land; and

(ii) the estimated product of any improvement rate shall not, without the approval of the county assembly, exceed in any financial year one quarter of the estimated aggregate product of the rate levied in such financial year.

Supplementary rate.

25. The Department may levy a supplementary rate for any financial year if it thinks it is necessary to do so:

Provided that where a site value rate or an improvement rate is levied no such supplementary rates which, when added to the rate or rates previously levied in the same financial year, would exceed either of the limits laid down in the provisos to subsections (1) and (2) of section 24 the approval of the County Assembly.

Uniformity of rate.

26. Any site value rate or improvement rate levied under this Act shall be a rate at a uniform percentage of the rateable value of each rateable property in the in the county.

Equitable distribution of rates.

27. The Department shall, while adopting any method of rating under this Act ensure that the rates are equitably distributed across all rating areas.

Due date for rates.

28. (1) Any rate levied under this Act shall become due on the first day of January and shall become payable not later than last day of the same month.

(2) The Department shall publish a notice of

not less than thirty days to all rateable owners on the date the rates become payable and the amount of rate payable

Payment of rates and interest.

29. (1) When the Department has issued notice under section 28, it shall be the duty of every person liable for such rate to pay the amount of such rate within the stipulated time.

(2) Any rates that remain unpaid within the stipulated time shall attract a charge of simple interest at the rate of three per centum per month.

(3) Notwithstanding sub-section (2), the interest charged shall not exceed the principle amount of the rate owing.

Rates chargeable on property.

30. (1) Any rate due, together with interest thereon calculated in accordance with section 29, shall be a charge against the land on which the rate was levied.

(2) Where the title to property described under subsection (1) is registered under any law relating to the registration of title to land, the Department may deliver a notification of such charge in the prescribed form to the registrar who shall register it against the title to that land and the charge shall take priority in accordance with such law.

Discount of rates.

31. The Department may allow a discount of not more than five per cent of the amount payable on any rate paid on or before the day on which such rate becomes payable or such later day as the Department may appoint subject to the approval by the County Executive Committee.

Statement of payment of rates and other charges. **32.** The Department shall upon request by rateable owner provide a statement of payment of rates which shall include any other relevant charges such as sewerage, sanitary and refuse removal charges chargeable to the property.

Exemption from, and remission of rates. **33.** No area rate or agricultural rental value rate shall be imposed on any land which no valuation for the purposes of rating may be made under this Act.

Contribution in lieu of rates. **34.** (1) There shall be paid to the county government an annual contribution in lieu of any rates levied under this Act by-

(a) the national government in respect of public land held by national government; and

(b) the community in respect of land vested in the Community.

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with this Act.

Publication and service of notices, etc. **35.** (1) Except where otherwise provided under this Act, any notice required to be published under this Act shall be published in one or more newspapers circulating in the county.

(2) Any notice, demand or other document required or authorized to be sent or served under or for the purposes of this Act may be sent or served either-

- (a) by delivering it to the person to or on whom it is to be sent or served; or
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or
- (c) by ordinary or registered post; or
- (d) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property; or
- (e) by any method which may be prescribed.

(3) Where any notice, demand or other document required to be served under this Act has been sent by ordinary or registered post, delivery or service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which a letter would be delivered in the ordinary course of the post.

PART V- ENFORCEMENT

Enforcement of the payment of rates.

36. (1) Where a rateable owner fails to pay the rates due when they become payable, the Department may send a demand for the unpaid rates to the rateable owner in the prescribed form.

(2) A person who having been served with a demand under subsection (1), makes default in payment of the rates, the Department or the designated agency of the county government may institute civil suit for recovery of the amount owed and the person sued shall be responsible for the costs of the suit.

Recovery of rates from tenants or occupiers.

37. (1) Where any rates remain unpaid after the demand is sent to rateable owner under section 36, the Department or such agency designated by the county government may serve a written notice in the prescribed form –

- (i) to any person paying rent in respect of any land on which such rates was levied; and
- (ii) to the rateable owner.

(2) A notice issued under subsection (1) shall–

- (i) state the amount payable to the county government; and
- (ii) require or direct that all future payments of rent to be made directly to the county government until such amounts payable have been fully paid;

and such notice shall serve to transfer to the county government the right to recover and

receive such monies.

(3) A tenant who pays the rent to the county government under this section shall not be liable to pay to the rateable owner the amount paid to the county government.

(4) The Department or the agency designated by the county government shall issue a discharge note to the tenant and the rateable owner after the tenant has completed paying to rates payable under this section.

PART VI- GENERAL PROVISIONS

Regulations

38. (1) The Executive Member may make regulations generally for the better carrying out of the object of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may-

- (a) prescribe the form and contents of valuation roll;
- (b) prescribe the forms of applications and notices;
- (c) prescribe the rates payable under this Act; and
- (d) prescribe fees payable under this Act.

Saving.

39. Any rate paid or payable to the county government prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.

Repeals.

40. Any valuation roll prepared or adopted prior to the commencement of this Act is repealed and shall cease to have effect.

MEMORANDUM OF OBJECTS OF REASONS

This Bill provides for the legal framework for land valuation for the purposes of rating and for the rating process by the county government.

The Bill seeks to promote transparency and efficiency in the land valuation and rating process. The Bill has been prepared in accordance with the national standards and policies related to valuation and rating.

PART I of the Bill deals with preliminary matters. The Part sets out the purpose of the Bill which includes ensuring effective, efficient and transparent administration of valuation of land for rating and rating, ensuring equity and fairness on the valuation and rating process.

PART II of the Bill provides for administration framework. It provides for the functions of the Department which includes dealing with relevant matters related to valuation and rating. It also establishes the office of the Director of valuation and rating.

PART III of the Bill provides for the process of valuation of land for rating. It provides for the preparation of the valuation roll, the content of the valuation roll and the process of preparation of the valuation roll.

PART IV of the Bill provides for the rating process. It provides for the levying of rates, the forms of rating, the methods of area rating, the process of collecting the rate, payment of rates and the appeal mechanisms where disputes arise in relation to rating.

PART V of the Bill provides for enforcement mechanisms.

PART VI of the Bill provides for general provisions which includes the powers of the Executive to make Regulations as well as the transition mechanisms.

Dated the 9th May 2015.

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Chairman, XXXXXX Committee